



GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

**SUPPLEMENT TO THE
FOURTH EDITION OF THE
BENGAL CODE.**

BENGAL ACTS, 1915 TO 1923.

**CALCUTTA,
THE BENGAL SECRETARIAT BOOK DEPOT, . W.L.B.
1924.**

[Price, Rs. 4-8.]

PREFACE.



This supplement to the fourth edition of the Bengal Code contains the Bengal Acts from 1915 to 1923 excepting Bengal Act I of 1917, which was repealed by Bengal Act III of 1923. The foot-notes follow the system referred to in the Preface to Volume I of the fourth edition.

A. M. HUTCHISON,
*Deputy Secretary, Legislative Department,
Government of Bengal.*

CALCUTA ;

The 1st February. 1924.

2 THE CALCUTTA PORT (AMENDMENT) ACT, 1915.

[**Ben. Act I of 1915.**]

(*Sec. 2.*)

what would be admissible in the case of Government servants of similar standing and status, and

- (b) the conditions aforesaid shall not, without similar sanction, be more favourable than those for the time being prescribed for such Government servants."

BENGAL ACT No. II OF 1915.

[THE BENGAL STEAM-BOILERS AND PRIME-MOVERS (AMENDMENT) ACT, 1915].¹

[31st March, 1915.]

An Act further to amend the Bengal Steam-boilers and Prime-movers Act, 1879

Ben Act III
of 1879

WHEREAS it is expedient further to amend the Bengal Steam-boilers and Prime-movers Act, 1879,² in the manner hereinafter appearing,

It is hereby enacted as follows —

1. This Act may be called the Bengal Steam-boilers and Prime-movers (Amendment) Act, 1915

Short title

Ben Act III
of 1879

2. For the third paragraph of section 1 of the Bengal Steam-boilers and Prime movers Act, 1879 (hereinafter called the said Act) the following shall be substituted namely —

Amendment of
section 1 of Ben
Act III of 1879

‘Nothing in this Act shall apply—

- (a) to any locomotive engine used upon any railway or any steam-vessel in the port of Calcutta, or
- (b) to any boiler or prime-mover used exclusively for domestic purposes at atmospheric pressure, or
- (c) to any boiler or prime-mover, or class of boilers or prime-movers, which the Local Government may, by order, specify in this behalf.”

3. In section 3 of the said Act, the following definition shall be inserted after the definition of “owner,” namely —

Amendment of
section 3

“ ‘Inspector,’ means any person appointed under section 4 to exercise the powers and perform the duties of an inspector under this Act ”

¹ For Statement of Objects and Reasons, see *Calcutta Gazette*, 1915, Pt IV, p 4 and for Proceedings in Council, see *ibid*, 1915, Pt IV A pp 11, 12 and 26

4 THE BENGAL STEAM-BOILERS AND PRIME-MOVERS
(AMENDMENT) ACT, 1915

[Ben. Act II

(Sec. 4.)

Amendment of
section 4

4. For section 4 of the said Act, the following section shall be substituted, namely :—

“4. (1) The Local Government may from time to time, by notification in the *Calcutta Gazette*, make rules¹ for carrying out the purposes and objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

- (a) provide for the appointment of inspectors under this Act;
- (b) prescribe the powers and duties of such inspectors and regulate the period of their service;
- (c) regulate the grant of leave to such inspectors and authorize the payment of leave allowances to the said inspectors;
- (d) prescribe the remuneration to be paid to any person appointed to act for an inspector during his absence on leave;
- (e) prescribe the conditions under which an inspector shall, on retirement, receive a pension, gratuity or compassionate allowance, and the amount of such pension, gratuity or compassionate allowance;
- (f) prescribe the conditions under which a pension, gratuity or compassionate allowance may be paid to any inspector injured, or to the relatives of any inspector killed, in the execution of his duty, or who may die in such exceptional circumstances as would, in the opinion of the Government of India, justify the payment of a pension, gratuity or compassionate allowance to his relatives had he been in Government service, whether the injury or death occurred before or after the commencement of the Bengal Steam-boilers and Prime-movers (Amendment) Act, 1915;

¹For rules under section 4, see the Bengal Local Statutory Rules and Orders.

of 1915.]

(Sec. 4.)

- (g) fix the fees payable on account of certificates granted under this Act;
 - (h) prescribe the time for which certificates granted under this Act shall remain in force;
 - (i) provide for the attendance of assessors and prescribe a penalty for non-attendance; and
 - (j) regulate the procedure on hearing appeals.
- (3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.
- (4) The date to be specified as that on or after which a draft of rules proposed to be made under this section will be taken into consideration shall not be less than one month from the date on which the draft of the proposed rules was published for general information."

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BENGAL ACT No. III OF 1915.

**[THE CALCUTTA IMPROVEMENT
(AMENDMENT) ACT, 1915].¹**

[14th April, 1915]

An Act to amend the Calcutta Improvement Act, 1911

Ben Act V
of 1911 WHEREAS it is expedient to amend the Calcutta Improvement Act, 1911,²

55 & 56
Vict., c 14 And whereas the sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892,³ to section 9 of this Act which affects an Act passed by the Governor General of India in Council,

It is hereby enacted as follows —

1. This Act may be called the Calcutta Improvement (Amendment) Act 1915. Short title

Ben Act V
of 1911 2. In section 2 of the Calcutta Improvement Act, 1911 (hereinafter called the said Act),— Amendment of
section 2 of Ben
Act V of 1911

(a) after clause (a), the following definition shall be inserted, namely —

“(aa) ‘building line’ means a line (in rear of the street alignment) up to which the main wall of a building abutting on a projected public street may lawfully extend”;

(b) at the end of clause (f), the words and figures “but does not include a projected public street referred to in section 63” shall be added, and

(c) in clause (n), the expression “building line” and the figure and brackets “(3)” shall be repealed.

¹ For Statement of Objects and Reasons see *Calcutta Gazette*, 1914 Pt. IV, p. 99, and for Proceedings in Council, see *ibid* Pt. IVA, pp. 897–905 and see *Calcutta Gazette*, 1915, Pt. IVA, pp. 55–57 and 67–8.

² Bengal Code, Vol. III.

³ The Indian Councils Act 1892, which is printed in the Collection of Statutes relating to India, 1913, Vol. II has been repealed by the Government of India Act

(Sec. 3.)

fact by notification,¹ and the publication of such notification shall be conclusive evidence that the plan has been duly made and sanctioned;

and the proposed public street to which such notification refers shall be deemed to be a projected public street, and shall be so deemed until—

(a) such street has been declared, under section 65 or section 66, as the case may be, to be a public street, or

(b) the said notification has been cancelled by another notification:

Provided that such cancellation shall not affect the validity of any action taken by the Board in pursuance of the said notification.

(8) If any person desires to erect, re-erect or add to any wall (exceeding ten feet in height) or building which falls within the street alignment or building line of a projected public street shown in any plan sanctioned by the Local Government under this section, he shall submit an application in writing to the Chairman for permission so to do:

Provided as follows:—

(i) no such application shall be necessary for permission to erect or re-erect, between a building line and the street alignment,—

(a) a porch or balcony, or

(b) along not more than one-third of the frontage, an outhouse not exceeding fifteen feet in height;

(ii) nothing in this sub-section shall relieve any person from the liability to obtain such sanction as it may be necessary to obtain under any law for the time being in force from any local authority.

Chairman shall in no case refuse an application submitted under sub-section (8) if the Local Government binds himself and

of 1915.]

(Sec 3)

his successors in interest to remove, without compensation, any wall or building to which that application relates, in the event of the Board—

(a) deciding (at any time after an improvement scheme has been sanctioned under section 4b for an area within which such building or wall is situate) that the said wall or building, or any portion thereof, ought to be removed, and

(b) calling upon the owner for the time being, by written notice, to remove the same within a time (not being less than sixty days from the date of the service of the notice) to be specified in the said notice

(10) If the Chairman does not, within thirty days from the receipt of an application submitted under sub-section (8), grant or refuse the permission applied for thereunder, such permission shall be deemed to have been granted

(11) If the Chairman refuses permission to any person to erect, re-erect or add to any wall or building as aforesaid which falls—

(i) within the street alignment, or

(ii) between the street alignment and the building line

of a projected public street, the owner of the land on which it was sought to erect, re-erect or add to such wall or building, may call upon the Board, at any time within three months from the date of such refusal, either—

(a) to pay him compensation for any damage sustained by him in consequence of such refusal, or

(b) to acquire so much of his land as falls within the street alignment, or between the street alignment and the building line, as the case may be,

and the Board shall thereupon—

in case (a), make full compensation to the said owner for any damage which he may be found to have sustained in consequence of such refusal, and

in case (b), forthwith take steps to acquire the said land.

(Secs. 4—6.)

Provided that, in the case of such land as falls within the street alignment only, it shall be optional with the Board to acquire the same in lieu of paying compensation therefor.

(12) An appeal shall lie to the Board from any refusal by the Chairman to grant an application under this section."

Amendment of
section 138.

4. At the end of clause (e) of section 138 of the said Act, the words and figures "or clause (iv) of sub-section (2) of section 63" shall be added.

Amendment of
section 171.

5. In section 171 of the said Act, for the words "If any person, without the permission of the Board, erects, re-erects, adds to, or alters any building or wall so as to make the same fall within the street alignment or building line shown in any plan finally adopted by the Board under section 63", the following shall be substituted, namely:—

"If any person, without the permission of the Chairman required by section 63, sub-section (8), erects, re-erects or adds to any wall (exceeding ten feet in height) or building which falls within the street alignment or building line of a projected public street shown in any plan sanctioned by the Local Government under the said section."

New section
171A.

6. After section 171 of the said Act the following shall be inserted, namely:—

Penalty for failure
to remove wall or
building in respect of
which agreement has
been executed.

"171A. If the owner for the time being of any wall or building in respect of which an agreement has been executed as provided in section 63, sub-section (9), fails—

- (a) to remove such wall or building, or any specified portion thereof, when so required by notice issued under that sub-section, or,
- (b) within fifteen days from the receipt of such notice, to authorize the Chairman, by permission in writing, to remove the said wall, building or portion,

he shall be punishable—

- (i) with fine which may extend, in the case of a masonry wall or building, to one hundred rupees, and, in the case of a hut, to twenty rupees; and

of 1915.]

(Secs 7-9)

(u) with further fine which may extend, in the case of a masonry wall or building to ten rupees, and, in the case of a hut, to five rupees, for each day after the first during which the failure continues "

7. Section 172 of the said Act is hereby repealed Repeal of
section 172

8. After section 174 of the said Act the following heading and section shall be inserted, namely — New section
174A

' Recovery of expenses

174A When a written notice, issued under section 63, sub section (9), for the removal of a wall or building, or any portion thereof, is not complied with by the owner thereof for the time being as provided in section 171A, the Chairman may proceed to remove such wall, building or portion and the expenses incurred in effecting such removal shall be recoverable by sale of the materials or other things removed "

Removal of wall or building and recovery of expenses

9. After clause (b) in Article 9 of the Schedule to the said Act the following shall be inserted, namely — Amendment of
Article 9 of the
Schedule

"(bb) if the market-value has been increased or decreased owing to the land falling within or near to the alignment of a projected public street, so much of the increase or decrease as may be due to such cause shall be disregarded ,

(bbb) if any person, without the permission of the Chairman required by section 63, sub-section (8), of the Calcutta Improvement Act 1911, has erected, re-erected or added to any wall (exceeding ten feet in height) or building within the street alignment or building line of a projected public street, then any increase in the market-value resulting from such erection, re-erection or addition shall be disregarded "

BENGAL ACT No. IV OF 1915.

[THE BENGAL EMBANKMENT (SUNDARBANS) ACT, 1915].¹

[14th April, 1915]

An Act to extend to the Sundarbans certain enactments relating to Embankments.

WHEREAS it is expedient to extend to the Sundarbans certain enactments relating to embankments,

And whereas the sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892², to the passing of this Act,

Ben Act II
of 1882

It is hereby enacted as follows —

1. This Act may be called the Bengal Embankment (Sundarbans) Act, 1915

Short title

2. The following enactments are hereby extended to the Sundarbans as excluded under section 1 of the Bengal Embankment Act, 1882,³ namely

Extension of enactments to the Sundarbans

Ben Act II
of 1882

Ben Act VI
of 1873

(1) the following portions of the Bengal Embankment Act, 1873,³ namely, section 12 section 13, the proviso to section 21 sections 26, 27, 28 and 29, and Schedules B, C and D, subject to the amendments made in the said sections 12, 21 and 26 by the second paragraph of section 2 of the Bengal Embankment Act, 1882 and

(2) the Bengal Embankment Act, 1882 except such portions thereof as have been repealed

Act XXVII
of 1855
Ben Act
VII of 1866

3. (1) The Bengal Embankment Acts 1875 and 1866, are hereby repealed

Repeal

(2) The words and figures "the Sundarbans, as defined under the provisions of clause 2, section 13, Regulation III of 1828 and", in section 1 of the Bengal Embankment Act, 1882, are hereby repealed.

¹ For Statement of Objects and Reasons, see *Calcutta Gazette* 1914 pt IV p 94, and 1897, and see *Calcutta*

in the Collection of Statutes
Government of India Act

BENGAL ACT No. V OF 1915.

(THE BENGAL DECENTRALIZATION ACT,
1915).¹

[27th October, 1915.]

An Act to decentralize and otherwise to facilitate the administration of certain enactments in force in Bengal.

WHEREAS it is expedient to decentralize and otherwise to facilitate the administration of certain enactments in force in Bengal ;

And whereas the sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892,² to the passing of this Act ;

50 d. 56
Vict., c 14

It is hereby enacted as follows :—

1. This Act may be called the Bengal Decentralization Act, 1915.

Short title

2. The enactments specified in the third column of the Schedule are hereby amended, to the extent and in the manner specified in the fourth column, in the areas specified in the fifth column thereof.

Amendment of
certain enact-
ments

3. Any appointment, notification, order, scheme, rule, form or by-law made or issued by an authority for the making or issuing of which a new authority is substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made or issued by such new authority unless and until superseded by an appointment, notification, order, scheme, rule, form or by-law made or issued by such new authority.

Saving of
orders, etc., issued
by Previous
authorities

¹ For Statement of Objects and Reasons, see *Calcutta Gazette*, 1915, Pt. IV, pp. 27 and 28, and for Proceedings in Council, see *ibid*, Pt. IVA, pp. 422-424 and 465 and 466.

² The Indian Councils Act, 1892, which is printed in the Collection of Statutes relating to India, 1913, Vol. II, has been repealed by the Government of India Act

THE SCHEDULE.

PART I.

Bengal Regulations.

Year.	No.	Short Title.	Amendments.	Areas in which amendments are to have effect.
1	2	3	4	5
1793	II	The Bengal Land-revenue Regulation, 1793.	Clause <i>Tenth</i> of section 8 is repealed ...	All areas in Bengal in which the Regulation is in force.
1810	XIX	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810.	In section 7, for the words "report to Government whether it should in their opinion" substitute the words "direct whether it should."	Ditto.
1822	VII	The Bengal Land-revenue Settlement Regulation, 1822.	In section 10, clause <i>First</i> , second paragraph,— (i) the amendment made by the Amending Act, 1903, Schedule II, Part I, is repealed; and (ii) for the words "shall be competent to the Governor General in Council" substitute the words "shall be competent to the Local Government or such other authority to whom the power to confirm settlements may be delegated by the Local Government by notification in the local official Gazette."	Ditto.
1825	IX	The Bengal Land-revenue Settlement Regulation, 1825.	In section 4, first paragraph,— (i) omit the words "and subject to the orders of Government"; (ii) the amendment made by the Amending Act, 1903, Schedule II, Part I, is repealed; and (iii) for the words "Governor General in Council" substitute the words "Board of Revenue."	Ditto.

of 1915.]

THE SCHEDULE—*contd.*PART II.
Bengal Acts.

Year.	No.	Short Title	Amendments	Areas in which amendments are to have effect.
1	2	3	4	5
1866	IV	The Calcutta Police Act, 1866	1 In section 6, omit the words "with the sanction of the Governor General of India in Council"	The town of Calcutta, as defined in section 3.
			2 " " " " " "	
1871	IV	The Puri Lodging-house Act 1871	In section 2, and in section 22, for the words "Lieutenant Governor of Bengal" substitute the words "Commissioner of the Division".	All areas in Bengal in which the Act is in force
1875	V	The Bengal Survey Act, 1875	1 In section 58, for the words "Board of Revenue" in both places in which they occur, substitute the words "Local Government"	Ditto.
			2 In section 63 for the words "With the sanction of the Lieutenant Governor, the Board of Revenue" substitute the words "The Local Government".	
1876	VII	The Land Registration Act, 1876.	In section 64, second proviso, for the word "Board" substitute the words "Commissioner of the Division".	Ditto
1879	IX	The Court of Wards Act, 1879.	1. In clause (c) of section 6 for the words "Local Government" substitute the word "Court". 2 In section 15, second paragraph, omit the words "with the sanction of the Lieutenant-Governor" and also the words "with the like sanction".	Ditto
1880	VI	The Bengal Drainage Act, 1880.	In section 39, for the words "Board of Revenue" substitute the words "Commissioner of the Division".	Ditto.
1880	IX	The Cess Act, 1880.	1. In the definition of "year" in section 4, for the words "Lieutenant-Governor" substitute the words "Board of Revenue". 2. In section 11, for the words "Lieutenant Governor" substitute the words "Board of Revenue".	Ditto.

¹ The entry relating to section 47A (4) of the Calcutta Suburban Police Act, 1866 (Ben Act II of 1866), was omitted by the Devolution Act, 1920 (XXXVIII of 1920), s. 2, First Sch., Pt. V.

² The entry relating to section 78A (4) of the Calcutta Police Act, 1866, was omitted by the same Act

THE SCHEDULE—*contd*PART II—*contd.**Bengal Acts—contd.*

Year.	No.	Short Title.	Amendments.	Areas in which amendments are to have effect.
1	2	3	4	5
1880	IX	The Cess Act, 1880— <i>contd.</i>	<p>3. In section 12,—</p> <p>(i) for the words "Lieutenant-Governor", in the three places in which they occur, substitute the words "Board of Revenue"; and</p> <p>(ii) for the word "he" substitute the word "they".</p> <p>4. In section 14,—</p> <p>(i) in the first paragraph, for the words "Lieutenant-Governor" substitute the words "Board of Revenue," and after the words "has ordered" insert the words and figures "under section 12"; and</p> <p>(ii) in the second paragraph, for the words "Lieutenant-Governor" substitute the words "Board of Revenue".</p> <p>5. In section 15,—</p> <p>(i) for the words "Lieutenant-Governor" substitute the words "Board of Revenue"; and</p> <p>(ii) for the word "he", in the two places in which it occurs, substitute the word "they".</p> <p>6. In section 16, for the words "Lieutenant-Governor" substitute the words "Board of Revenue".</p> <p>7. In section 36, for the words "Lieutenant-Governor" substitute the words "Board of Revenue".</p> <p>8. In section 37, for the words "Board of Revenue" substitute the word "Commissioner".</p>	<p>All districts in the Chittagong, Dacca and Rajshahi Divisions (except the district of Darjeeling).</p>

of 1915.

THE SCHEDULE—*contd.*PART II—*contd**Bengal Acts—contd.*

Year	No	Short Title	Amendments	Area in which amendments are to have effect
1	2	3	4	5
1880	IX	The Cess Act, 1880— <i>contd</i>	<p>9 In section 42 for the words 'Lieutenant Governor,' in the two places in which they occur substitute the words "Board of Revenue"</p> <p>10 In section 45,— (i) in sub section (1) for the words "Lieutenant Governor" substitute the words "Board of Revenue", and (ii) in sub section (2), for the words from 'and the Board of Revenue may' to the end of the sub section substitute the following — "and the Collector, if he becomes aware that any separate account opened under sub section (1) does not represent existing facts, may, after service of a notice on the recorded proprietor or manager, and after hearing any objection which may be preferred within six weeks of such service, close the account"</p> <p>11 In section 54, for the words "Lieutenant Governor", in the two places in which they occur, substitute the words "Board of Revenue"</p> <p>12 In section 57, for the words "Lieutenant-Governor" substitute the words "Board of Revenue"</p> <p>13 In section 83,— (i) for the words "Lieutenant Governor" substitute the words "Board of Revenue", and (ii) for the words "subject to him" substitute the words "within the jurisdiction"</p>	<p>All areas in Bengal in which the Act is in force</p> <p>Amendment 10 (i)— All areas in Bengal in which the Act is in force</p> <p>Amendment 10 (ii)— All districts in the Chittagong, Dacca and Rajshahi Divisions (except the district of Darjeeling)</p> <p>All districts in the Chittagong, Dacca and Rajshahi Divisions (except the district of Darjeeling)</p> <p>All areas in Bengal in which the Act is in force</p>

THE SCHEDULE—*contd*PART II—*contd.**Bengal Acts—contd.*

Year.	No.	Short Title.	Amendments.	Areas in which amendments are to have effect.
1	2	3	4	5
1880	IX	The Cess Act, 1880— <i>concl.</i>	<p>14. In section 88, for the words "Lieutenant-Governor", in the four places in which they occur, substitute the words "Board of Revenue".</p> <p>15. In section 100, for the words "Lieutenant-Governor", in the two places in which they occur, substitute the words "Board of Revenue".</p> <p>16. In section 101, omit the words "with the sanction of the Commissioner".</p> <p>17. In schedule D, for the words "Lieutenant-Governor" substitute the words "Board of Revenue".</p>	All areas in Bengal in which the Act is in force.
1882	II	The Bengal Embankment Act, 1882.	<p>1. In section 12, for the words "Board of Revenue" substitute the words "Local Government".</p> <p>2. Section 13 is repealed.</p> <p>3. In section 14, for the words "such report from the Board" substitute the words "the report forwarded by the Commissioner".</p> <p>4. In section 15, first paragraph, omit the words "or the Board of Revenue".</p> <p>5. In section 19, last paragraph, for the words "in the usual manner through the Board of Revenue to the Lieutenant-Governor" substitute the words "to the Local Government".</p> <p>6. In section 61, first paragraph, for the words "Lieutenant-Governor" substitute the words "Commissioner of the Division".</p> <p>7. In section 73, for the words "Board of Revenue" substitute the words "Commissioner of the Division".</p>	All areas in Bengal.

of 1915.]

THE SCHEDULE—*contd.*PART II—*contd.**Bengal Acts—contd.*

Year	No	Short Title.	Amendments	Areas in which amendments are to have effect
1	2	3	4	5
1890	III	The Calcutta Port Act 1890	<p>1 For section 20, sub section (1) substitute the following, namely —</p> <p>“(1) All debentures which are issued under the authority of this Act shall be in such form as the Commissioners, with the previous consent of the Local Government, shall from time to time determine</p> <p>Provided that, in the case of sterling loans, the form of debenture shall, before issue, be approved by the Governor General in Council”.</p> <p>2 In section 31 sub section (1) for the words “Governor General in Council” substitute the words “Local Government”</p> <p>3 In section 34, sub section (1), for the words “shall exceed five hundred rupees” substitute the words “amounts to, or exceeds, one thousand rupees.”</p> <p>4 The proviso to section 48 is repealed</p> <p>5 For section 51 substitute the following, namely —</p> <p>“51. No new work, the estimated cost of which exceeds two lakhs of rupees, shall be commenced by the Commissioners until the plan and estimate thereof have been submitted to, and approved by, the Local Government”</p>	The Port of Calcutta.

THE SCHEDULE—*concl'd.*PART II—*concl'd.**Bengal Acts—concl'd.*

Year.	No.	Short Title.	Amendments.	Areas in which amendments are to have effect.
1	2	3	4	5
1890	III	The Calcutta Port Act, 1890.	<p>6. In section 90, first paragraph, omit the words "when thereunto required by the Local Government".</p> <p>7. In section 92, omit the words "with the sanction of the Local Government".</p> <p>8. In section 97, sub-section (1),— (i) omit the words "with the sanction of the Local Government"; and (ii) for the words "and with the same sanction" substitute the words "with the sanction of the Local Government".</p>	} The Port of Calcutta.

BENGAL ACT No. I OF 1916.

[THE BENGAL SMOKE-NUISANCES (AMENDMENT) ACT, 1916].¹

[5th April, 1916]

*An Act to amend the Bengal Smoke-nuisances Act, 1905*Ben Act III
of 1905

WHEREAS it is expedient to amend the Bengal Smoke-nuisances Act, 1905,² in the manner hereinafter appearing;

It is hereby enacted as follows.—

1. This Act may be called the Bengal Smoke-nuisances (Amendment) Act, 1916

Short title

Ben Act III
of 1905

2. For clause (1) of section 3 of the Bengal Smoke-nuisances Act, 1905 (hereinafter called the said Act), the following shall be substituted, namely—

Amendment of
section 3

“(1) ‘furnace’ means any furnace or fireplace used—

(a) for working engines by steam, or

(b) for any other purpose whatsoever

Provided that no furnace or fireplace—

(i) used for the burning of the dead, or

(ii) used in a private house for *bona fide* domestic purposes other than the purpose specified in clause (a),

shall be deemed to be a furnace or fireplace within the meaning of this Act.”

3. In section 4, sub-section (3), of the said Act, for the words and brackets “One-half of the members (exclusive of the President)” the following shall be substituted, namely—

Amendment of
section 4

“Not more than one-half of the members (including the President)”

4. After section 5, sub-section (2), of the said Act, the following shall be inserted, namely—

Amendment of
section 5

“(3) Every Inspector appointed under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.”

Act XLV of
1860IV, pp 40
468 and see

(Sec. 5.)

Amendment of
section 6

5. In section 6 of the said Act,—

(a) for clause (a)¹ of sub-section (1), the following shall be substituted, namely:—

“(a) the erection or use of any specified class of brick, tile or lime-kilns, or”;

(b) in clause (b) of sub-section (1), after the word “erection” the words “or use” shall be inserted;

(c) in sub-section (2),¹ after the word “erected” the words “or used” shall be inserted; and

(d) for sub-section (4), the following shall be substituted, namely:—

“(4) If any person makes coke in or upon any building or land in contravention of any notification issued under sub-section (1), clause (d),—

(a) such person, and

(b) the owner (if he knowingly permits the coke to be made by such person) or the occupier of such building or land

shall be jointly and severally liable to a fine which may extend, on a first conviction, to twenty-five rupees, and on any subsequent conviction to fifty rupees: and the coke so made may be seized by an Inspector pending the order of the Magistrate.

(5) In any prosecution under sub-section (4), the Magistrate may, besides imposing a fine as aforesaid, record an order directing the confiscation of any coke seized as in that sub-section provided; and, in such a case, it shall be lawful for the Commission to dispose of the same in such manner as the Local Government may, by rule made under section 10, prescribe.

Clause (a) of sub-section (1) and sub-section (2) have been further amended by the Bengal Smoke-nuisances (Amendment) Act, 1923 (Ben. Act IV of 1923), s 2, printed *post*, p. 803.

of 1916.]

(Secs 6—8)

(6) For the purposes of sub-section (4),—

(i) the expression “occupier” means any person for the time being paying or liable to pay, to the owner the rent or any portion of the rent of the building or land in respect of which the word is used, and includes an owner living in, or otherwise using, his own building or land, and

(ii) the expression “owner” includes the person for the time being receiving the rent of any building or land or of any part of any building or land, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or as a receiver, or who would so receive such rent if the building, land or part thereof were let to a tenant”

6. In section¹ 7, sub-section (1), of the said Act after the words “for erecting,” the words “or using” shall be inserted Amendment of section 7

7. Section 8, sub-section (2), of the said Act, is hereby repealed Amendment of section 8

8. After section 8 of the said Act, the following shall be inserted, namely — New section 8A

‘ 8A (1) After the commencement of the Bengal Smoke-nuisances (Amendment) Act, 1916

Submission of plans and penalty (a) no furnace, flue or chimney shall be erected, and

(b) no furnace, flue or chimney, erected prior to the commencement of the said Act, shall be re-erected, altered or added to

otherwise than in accordance with plans approved by the Commission

¹ Section 7 has been further amended by the Bengal Smoke-nuisances (Amendment) Act 1923 (Ben Act IV of 1923), a 2 printed post, p 603

(Sec. 5.)

Amendment of
section 6.

5. In section 6 of the said Act,—

(a) for clause (a)¹ of sub-section (1), the following shall be substituted, namely:—

“(a) the erection or use of any specified class of brick, tile or lime-kilns, or”;

(b) in clause (b) of sub-section (1), after the word “erection” the words “or use” shall be inserted;

(c) in sub-section (2),¹ after the word “erected” the words “or used” shall be inserted; and

(d) for sub-section (4), the following shall be substituted, namely:—

“(4) If any person makes coke in or upon any building or land in contravention of any notification issued under sub-section (1), clause (d),—

(a) such person, and

(b) the owner (if he knowingly permits the coke to be made by such person) or the occupier of such building or land

shall be jointly and severally liable to a fine which may extend, on a first conviction, to twenty-five rupees, and on any subsequent conviction to fifty rupees; and the coke so made may be seized by an Inspector pending the order of the Magistrate.

(5) In any prosecution under sub-section (4), the Magistrate may, besides imposing a fine as aforesaid, record an order directing the confiscation of any coke seized as in that sub-section provided; and, in such a case, it shall be lawful for the Commission to dispose of the same in such manner as the Local Government may, by rule made under section 10, prescribe.

¹ Clause (a) of sub-section (1) and sub-section (2) have been further amended by the Bengal Smoke-nuisances (Amendment) Act, 1923 (Ben. Act IV of 1923), s 2, printed *post*, p. 803.

THE BENGAL SMOKE-NUISANCES (AMENDMENT) 29
ACT, 1916.

of 1916.]

(Sec. 10)

10. In section¹ 10 of the said Act,—

Amendment of
section 10

(a) in sub-section (1), the words “with the previous sanction of the Governor General in Council, and” are hereby repealed;

(b) for clause (f) of sub-section (2), the following shall be substituted, namely:—

“(f) regulate, with due regard to the safety of shipping, the emission of smoke from the furnaces of vessels”;

(c) the word “and” at the end of clause (h) of the same sub-section, is hereby repealed; and

(d) after clause (i) of the same sub-section, the following shall be inserted, namely:—

“(j) regulate the disposal of coke confiscated under section 6, sub-section (5); and

(k) prescribe a procedure to give effect to the provisions of section 8A.”

¹Section 10 has been further amended by the Bengal Smoke nuisances (Amendment) Act, 1923 (Ben Act IV of 1923), s 3, printed *post*, p. 303.

BENGAL ACT No. I OF 1918.

[THE BENGAL PUBLIC DEMANDS RECOVERY (AMENDMENT) ACT, 1918.]¹

[23rd January, 1918]

An Act to amend the Bengal Public Demands Recovery Act, 1913

Ben Act
III of 1913

WHEREAS it is expedient to amend the Bengal Public Demands Recovery Act, 1913,² in order to provide for a more effective method of realising the contributions to the assets of a Co-operative Society under liquidation and the costs of such liquidation,

It is hereby enacted as follows —

1. This Act may be called the Bengal Public Demands Recovery (Amendment) Act, 1918

Short title

2. After sub-section (1) of section 5 of the Bengal Public Demands Recovery Act, 1913, the following shall be inserted, namely —

Amendment of
section 5
of
Bengal Act III
of 1913

“ Provided that no action shall be taken under this Act on a requisition made by a liquidator in pursuance of an order under clause (b) or clause (d) of sub-section (2) of section 42 of the Co-operative Societies Act, 1912,³ unless the requisition be countersigned by the Registrar of Co-operative Societies, Bengal ”

II of 1912

3. After article 12 of Schedule I to the said Act the following shall be inserted, namely —

Amendment of
Schedule I

“ 12-A. Any sum ordered by a liquidator appointed under sub-section (1) of section 12 of the Co-operative Societies Act, 1912, to be recovered as a contribution to the assets of a society or as the cost of liquidation ”.

II of 1912

¹ For Statement of Objects and Reasons see *Calcutta Gazette*, 1917, Pt IV, p 16, and for Proceedings in Council, see *ibid*, Pt IVA, pp 852 and 1813, and see *Calcutta Gazette*, 1918, Pt IV A, p 80

² Bengal Code Vol III

³ General Acts, Vol VII

(Sec. 2.)

(3) The publication of a notification under sub-section (2) shall be conclusive evidence that the provisions of this Chapter have been duly applied to such castes or tribes.

(4) The Local Government may, by a like notification, declare that this Chapter shall, in any district or local area, cease to apply to the Sonthals mentioned in sub-section (1) or to any caste or tribe to which it may have been applied under sub-section (2).

"49B. No transfer by an aboriginal tenure-holder, raiyat or under-raiyat of his right in his tenure or holding, or in any portion thereof, by private sale, gift, will, mortgage, lease or any contract or agreement, shall be valid to any extent except as provided in this Chapter.

Restrictions on transfer of tenant rights.

"49C. An aboriginal tenure-holder may grant a lease to another aboriginal, to hold the land as a tenure-holder, or to cultivate it as a raiyat, in accordance with the provisions of this Act.

Lease by tenure-holder

"49D. Subject to the provisions of section 55, an aboriginal raiyat may sub-let his holding to another aboriginal to cultivate it as an under-raiyat.

Sub-letting by raiyat.

"49E. (1) An aboriginal tenure-holder, raiyat or under-raiyat may enter with another aboriginal into a complete usufructuary mortgage in respect of any land under his own cultivation, for any period which does not and cannot, in any possible event, by any agreement, express or implied, exceed seven years, or the period of his own right, whichever is less:

Usufructuary mortgage by tenure-holder, raiyat or under-raiyat.

Provided that every mortgage so entered into shall be registered under the Indian Registration Act, 1908.¹

of 1918.]

(Sec 2)

(2) An aboriginal tenant's power to mortgage his land shall be restricted to only one form of mortgage, namely, a complete usufructuary mortgage.

Explanation—A 'complete usufructuary mortgage' means a transfer by a tenant of the right of possession in any land for the purpose of securing the payment of money or the return of grain advanced or to be advanced by way of loan, upon the condition that the loan, with all interest thereon, shall be deemed to be extinguished by the profits arising from the land during the period of the mortgage.

Application to Collector for transfer in certain cases

"49F. (1) If in any case—

(a) an aboriginal tenure-holder is unable to lease his land as provided in section 49C, or an aboriginal raiyat is unable to sub-let his holding as provided in section 49D, or an aboriginal tenure-holder, raiyat or under-raiyat is unable to mortgage his land to another aboriginal as provided in section 49E, sub-section (1), or

(b) an aboriginal tenure-holder, raiyat or under-raiyat desires to transfer his land, or any portion thereof, by private sale, gift or will to any person,

he may apply to the Collector for permission, in case (a), to transfer the same to a person who is not an aboriginal, or in case (b), to transfer the same by private sale, gift or will to any person, and the Collector may pass such order on the application as he thinks fit.

(2) Every such transfer shall be made by registered deed, and before the deed is registered and the land transferred, the written consent of the Collector shall be obtained to the terms of the deed and to the transfer.

(3) Nothing in this section shall validate a transfer of any land or portion thereof which, by the terms upon which it is held, or by any law or local custom, would not be transferable except for the provisions of this section.

(Sec. 2.)

“49G. No transfer by an aboriginal tenure-holder, raiyat or under-raiyat in contravention of the provisions of this Chapter shall be registered or in any way recognized as valid by any Court, whether in the exercise of civil, criminal or revenue jurisdiction.

Courts not to register, or recognise as valid, transfers in contravention of this Chapter.

“49H. (1) If a transfer of a tenure or holding, or any portion thereof, is made by an aboriginal tenure-holder, raiyat or under-raiyat in contravention of the provisions of section 49B, or if the transferee has continued or is in possession in contravention of the provisions of section 49E, sub-section (1), or section 49F, as the case may be, the Collector may, on his own initiative or on application made in that behalf, by an order in writing, eject the transferee from such tenure, holding or portion :

Power to Collector to set aside improper transfers by tenure-holder, raiyat or under-raiyat.

Provided that—

- (a) the transferee whom it is proposed to eject has not been in continuous possession in contravention of this Act for twelve years, and
- (b) he is given an opportunity of showing cause against the order of ejectment.

(2) When the Collector has passed any order under sub-section (1), he shall either—

- (a) restore the transferred land to the aboriginal tenure-holder, raiyat or under-raiyat, or his heir or legal representative, or
- (b) failing the transferor or his heir or legal representative, declare that the right of settlement is vested in the landlord subject to the provisions of section 49J, provided that if the right is not exercised within one year, the Collector may, within six months, settle the land on behalf of the landlord on such terms as he deems fit with an aboriginal; and, if the Collector is unable to make such settlement within the said period, an unrestricted right of settlement will vest in the landlord.

of 1918.]

(Sec 2)

Resettlement of certain
tenancies

“49J. (1) Whenever—

- (a) the right of settlement of any tenancy or any portion thereof, is declared to be vested in the landlord under clause (b) of sub-section (2) of section 49H, or
- (b) an aboriginal tenant surrenders his tenancy, or a portion thereof, or abandons his residence and ceases to hold his tenancy,

the landlord may, subject to the provisions of sections 86 and 87,—

- (i) settle the tenancy, or a portion thereof, with an aboriginal, or
- (ii) with the approval of the Collector in writing settle the same with a person who is not an aboriginal or retain it in his own possession provided that such approval shall not be withheld if the Collector is satisfied that the surrender or abandonment referred to in this sub-section is not made with the object of evading the provisions of sections 49B, 49E or 49F

(2) If any landlord resettles or otherwise deals with any tenancy as aforesaid in contravention of the provisions of sub-section (1), the Collector may take action, so far as may be, in accordance with the provisions of section 49H

“49K. Notwithstanding anything in this Act, no

Restrictions on sale of
tenant rights under order
of Court

decree or order shall be passed by any Court for the sale of the right of an aboriginal tenure-holder, raiyat or under-raiyat in his tenure or holding, or in any portion thereof, nor shall any such right be sold in execution of any decree or order

Provided as follows —

- (a) any tenure or holding belonging to an aboriginal may be sold, in execution of a decree of a competent Court, to recover an arrear of rent which has accrued in respect of the tenure or holding;

(Sec. 2.)

(b) nothing in this section shall affect any right to execute a decree for the sale of any such tenure or holding, or the terms or conditions of any *bona fide* contract relating thereto, if such decree was passed, or such contract registered,—

(i) in the case of the Southals of the districts of Birbhum, Bankura and Midnapore, before the 1st November, 1916, and

(ii) in the case of other castes and tribes to which this Chapter has been applied, at least one year before the date of the publication of the notification under section 49A, sub-section (2), in respect to such castes or tribes ;

(c) nothing in this section shall affect any right for the sale of any such tenure or holding for the recovery of any dues which are recoverable as public demands.

“49L. If the sale of a tenure or holding, or any portion thereof, is ordered in execution of a decree against an aboriginal tenure-holder, raiyat or under-raiyat in respect of such tenancy or portion thereof, the Court executing the decree shall allow the tenant reasonable time in which to pay the amount due.

“49M. (1) An appeal, if presented within thirty days from the date of the order appealed against, shall lie to the Collector of the district from any order made under sections 49F, 49H or 49J by any officer in the district exercising the powers of a Collector, and the order of the Collector on appeal shall be final :

Provided that every order passed by the Collector on appeal shall be subject to revision and modification by the Commissioner.

(2) Notwithstanding anything in sub-section (1), an appeal from any order made under any of the sections mentioned in that sub-section by an officer acting under Chapter X of this Act shall be to such officer as the Local Government may appoint in this

of 1918.]

(Sec 2)

behalf, and the orders of such officer on appeal shall be final

Provided that, in every such case, every order passed by the said officer on appeal shall be subject to revision and modification by such officer as the Local Government may appoint to deal therewith

(3) An appeal, as provided in sub-section (1), shall lie to the Commissioner from any original order made by the Collector of the district under any of the sections mentioned in that sub-section

"49N. Notwithstanding anything in this Act, no suit shall lie in any Civil Court to vary or set aside any order passed by the Collector in any proceeding under this Chapter except on the ground of fraud or want of jurisdiction

Bar to suits

"49O. Nothing in this Chapter shall affect the validity of any transfer (not otherwise invalid) by a tenure-holder, raiyat or under-raiyat of his tenure or holding, or any portion thereof, made *bona fide*,—

Saving of certain transfers

(a) in the case of the Sonthals of the districts of Birbhum, Bankura and Midnapore before the 1st November, 1916, and

(b) in the case of other castes and tribes to which this Chapter has been applied, at least one year before the date of the publication of the notification under section 49A, sub-section (2), in respect to such castes or tribes"

BENGAL ACT No. III OF 1918.

[THE BENGAL (ALIENS) DISQUALIFICATION ACT, 1918.]¹

[20th March, 1918.]

An Act to disqualify certain persons from voting at elections of, or being elected or appointed as members of, or holding office in, local bodies in Bengal

WHEREAS it is expedient to disqualify certain persons from voting at elections of, or being elected or appointed as Commissioners of the Corporation of Calcutta or of any other Municipality in Bengal, or as members of District or Local Boards or of Union Committees therein, and also to disqualify them from holding office in any such body,

Preamble

It is hereby enacted as follows —

1. (1) This Act may be called the Bengal (Aliens) Disqualification Act, 1918

Short title,
commencement
and local extent

(2) It shall come into force on such date² as the Local Government may direct by notification in the *Calcutta Gazette*

(3) It extends to the whole of Bengal

2. In this Act, 'India' shall mean British India, together with any territories of any Indian Prince or Chief under the suzerainty of His Majesty exercised through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India

Definition

3. Notwithstanding anything contained in the Calcutta Municipal Act, 1899,³ the Bengal Municipal Act, 1884, and the Bengal Local Self-Government Act of 1885, or in any rule or by-law made under any of the said Acts, no person who is not a British subject or a subject of any State in India shall be qualified to vote at the election of, or to be a candidate for election as a Commissioner of the Corporation of Calcutta or of any other Municipality in Bengal, or as a member of any District or Local Board or Union Committee therein or to hold the office of Chairman, Deputy Chairman or Vice-Chairman of any such body under

Persons disqualified from voting at elections of, or being members of or holding office in, local bodies

Ben Act
III of 1899
Ben Act
III of 1884
Ben Act
III of 1885

¹ For Statement of Objects and Reasons see *Calcutta Gazette*, 1918, Pt IV, p 2, and for Proceedings in Council see *ibid* Pt IV A, pp 196 and 197, and 289—291

² The 1st April 1918 see Notification No 897M, dated the 21st March 1918, *Calcutta Gazette* 1918 Pt II, p 217

³ The Calcutta Municipal Act, 1899 has been repealed and re-enacted by the Calcutta Municipal Act, 1913 (Ben Act III of 1913) Part p 425

[Ben. Act III of 1918.]

(Sec. 3.)

the Calcutta Municipal Act, 1899,¹ the Bengal Municipal Act, 1884, or the Bengal Local Self-Government Act of 1885, nor shall such person be appointed to be a Commissioner or a member or to hold any such office under any of the said Acts; and

Ben. Act
III of 1899.
Ben. Act
III of 1884.
Ben. Act
III of 1885.

if, on the date when this Act comes into force, any such person is holding any such office or is a Commissioner of the Corporation of Calcutta or of any other Municipality in Bengal or a member of any District or Local Board or Union Committee therein under any of the said Acts he shall, notwithstanding anything contained in those Acts, be deemed to have vacated his office or seat from such date, and such vacancy shall be filled up in the same manner as if it were caused by resignation duly accepted:

Provided that the Local Government may, * * *² by notification in the *Calcutta Gazette*, exempt from the provisions of this section, with effect from the commencement of this Act or from such date as may be specified in the notification, any person or class of persons who are not British subjects or subjects of any State in India.

¹See foot-note 3 on p. 41 *ante*.

²The words "with the approval of the Governor General in Council" were omitted by the Devolution Act, 1920 (XXXVIII of 1920), s. 2, First Sch., Pt. V.

BENGAL ACT No. IV OF 1918.

THE SERAMPORE COLLEGE ACT, 1918.

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SCHEDULE I—Charter of Incorporation of the
Serampore College

SCHEDULE II—Statutes and Regulations of the
Serampore College

BENGAL ACT No. IV OF 1918.

(THE SERAMPORE COLLEGE ACT, 1918).¹

[1st May, 1918.]

An Act to supplement, and in certain matters to supersede, the Royal Charter of Incorporation and the Statute and Regulations of the Serampore College

WHEREAS, on the 23rd day of February, 1827, the institution established in Serampore, Bengal, and known as the Serampore College, was incorporated by Royal Charter granted by his late Danish Majesty, King Frederick the Sixth, with the powers and privileges in the said Royal Charter set forth, including the power of conferring upon the students of the said College degrees of rank and honour according to their proficiency in science,

And whereas by Article VI of the Treaty of Purchase, dated the 22nd February, 1845, transferring Serampore to the British Government, it was provided that the rights and immunities granted to the Serampore College by the said Royal Charter, as translated and contained in Schedule I to this Act, should not be interfered with, but should continue in force in the same manner as if they had been obtained by a Charter from the British Government, subject to the general law of British India,

And whereas Statutes and Regulations for the better government of the said College and management of its concerns, as contained in Schedule II to this Act, were, on the 12th day of June, 1833, made and established under the powers conferred by Article 4 of the said Royal Charter,

And whereas, under the provisions of the said Royal Charter, the Council of the College consists of a Master or President and two or four members elected as provided in the said Statutes and Regulations, and the management of the College and its general order and government is vested in the Master and Council, and the said power of conferring degrees of rank and honour is vested in the first Council and their successors for ever,

And whereas it is considered that in order to give effect, under the conditions now existing, to the intentions of his late Danish Majesty and of the founders of the said College, that is to say, to promote

¹ For Statement of Objects and Reasons see *Calcutta Gazette* 1918, Pt. IV, p. 18, and for Proceedings in Council, see *ibid*, Pt. IVA, pp. 198 and 199 and 291-79¹ and 627-633

(Secs. 1, 2.)

piety and learning, particularly among the native Christian population of India, the amendment of the constitution of the College, by the enlargement of the Council on an interdenominational basis, with power to delegate some of its functions, in manner hereinafter appearing, is required;

And whereas the present Council of the said College consists of the Reverend George Pearce Gould, M.A., D.D., Master and President, George Barclay Leechman, Esq., Sir George Watson Macalpinc, LL.D., the Reverend Robert Forman Horton, M.A., D.D., and the Reverend George Howells, M.A., PH.D., Principal of the College;

And whereas it is deemed expedient by the Governor in Council, with the consent of the said Council of the Serampore College, that a Faculty and Senate be constituted for the said College in manner hereinafter appearing and that suitable standards be imposed in regard to any secular degrees that may hereafter be conferred by the said Council under the terms of the said Royal Charter;

And whereas it is necessary to make provision for the above purposes by subjecting the said Royal Charter, Statutes and Regulations to an Act of the legislature under the general law of British India in accordance with the terms of the aforesaid Treaty;

And whereas the previous sanction of the Governor General in Council has been obtained to the passing of this Act;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Serampore College Act, 1918.

Constitution of the Council.

2. (1) The Council of the Serampore College as constituted by the Royal Charter of the 23rd day of February, 1827, shall be enlarged so as to consist of not less than five nor more than sixteen ordinary members, including the Master, as the Council may from time to time determine. The first Council constituted under this section shall include the present Master and President and the other present members.

(2) At least one-third of the members of the Council shall be members of the Baptist denomination.

of 1918]

(Secs 3—8)

(3) The Master shall be the President of the Council

(4) The Principal of the College, if not an ordinary member shall be an additional member of the Council *ex officio* during his term of office as Principal of the College

(5) Until otherwise determined by by-law made under section 14, three members of the Council shall form a quorum

3. Any member of the Council may at any time resign his office by notice in writing to the Master, provided that no such resignation shall be deemed to take effect so long as the total number of members of the Council shall by reason thereof be less than five

Resignation of
Members

4. On any vacancy occurring in the office of Master the remaining members of the Council shall elect another person, whether one of their number or not, to fill his place

Election of
Master

5. The Council shall, within one year from the date of the commencement of this Act, constitute and appoint in the manner prescribed in section 6 a body to be known as the College Faculty

The College
Faculty

6. (1) The Faculty shall consist of the Principal (who shall be its President) and such of the professors and other officials and functionaries of the College as may be appointed by the Council in accordance with by-laws made under section 14

Constitution of
the College
Faculty

(2) The Council shall from time to time prescribe and declare by order in writing the powers and duties of the Faculty, and may remove any member thereof

7. The Council may delegate to the Faculty all or any of the powers and duties of the Council and Master, which concern only the internal management of the College and its general order and good government

Delegation of
Council's powers
and duties

8. The Council shall, within one year from the date of the commencement of this Act, constitute and appoint in the manner prescribed in section 9 a body to be known as the Senate of the College

The Senate of
the College

(Secs. 9—11.)

Constitution of
the Senate.

9. The Senate shall consist of the Principal (who shall be convenor) and not less than twelve nor more than eighteen persons as the Council may from time to time determine, to be appointed by the Council :

Provided that—

(a) at least one and not more than three representatives of each of the following Christian denominations, viz., Anglican, Baptist, Congregational, Lutheran, Methodist, Presbyterian and Syrian, shall, as far as practicable, be members of the Senate ;

(b) at least two-thirds of the members shall be persons other than professors, officials or functionaries of the College ;

(c) not less than one-sixth of the members shall be members of the College Faculty.

Term of office
of members of
the Senate.

10. (1) Subject to the provisions of clause 11 of the Statutes and Regulations of the College, which shall be deemed to apply to members of the Senate, each member of the Senate shall hold office for a period of five years, at the expiration of which period he shall retire, but he shall be eligible for re-appointment :

Provided that the Principal shall not, during the term of his office as Principal, be subject to retirement, unless he becomes disqualified under the provisions of clause 11 of the Statutes and Regulations.

(2) Any member of the Senate may, by notice in writing to the Master, resign his membership at any time.

Duties of the
Senate.

11. The Senate shall frame courses of study and make rules for the conduct of examinations, and shall, subject to the control of the Council, determine the qualifications for degrees and diplomas, and do and perform all other matters and things necessary or proper for or relating to the determination of the eligibility of candidates for degrees, diplomas and certificates to be conferred by the Council.

of 1918.]

(Secs 12—14)

12. Subject to the provisions of this Act, the Senate shall make rules and regulations for the convening of its meetings and for the proper conduct of its business

Power of the Senate to make rules and regulations

13. If, at any time, the Council shall intend to grant degrees in any branch or branches of knowledge and science other than theology, such degrees shall be confined to students who shall have received regular instruction at the Serampore College, and before the Council proceeds to grant such degrees, it shall satisfy the Government as defined in section 2 (b)¹ of the Indian Universities Act, 1904, in relation to the University of Calcutta as to the adequacy—

Granting of degrees

(1) of the establishment and equipment of the College,

(2) of the academic standard to be maintained, and

(3) of the financial provision made therefor

Provided that the said Government, on ceasing to be so satisfied, may withdraw their approval of the granting of such degrees

14. Subject to the provisions of this Act and of the said Royal Charter, Statutes and Regulations, so far as they are not inconsistent therewith, the Council shall make by-laws providing for and regulating the following matters, namely —

Power of the Council to make by laws

(a) the convening of meetings of the Council,

(b) the quorum to be reckoned at meetings of the Council and the conduct of business at such meetings,

(c) the appointment of members of the Council, Faculty and Senate,

(d) the duties to be performed by the Faculty under the direction and control of the Council,

(e) the conferring of degrees, diplomas and certificates on the recommendation of the Senate,

¹ Clause (b) of section 2 of Act VIII of 1904 was partially repealed by the Calcutta University Act, 1911 (VII of 1911), s. 4, Feb

(Sec. 15.)

- (f) the terms and tenure of appointments, duties, emoluments, allowances and superannuation allowances of the Principal, Professors, Fellows, Tutors and other officers of the College and of its servants;
- (g) the finances and accounts of the College and the investment of its funds;
- (h) the person or persons by whom, and the manner and form in which, contracts by or on behalf of the College may be entered into, varied or discharged, and deeds, agreements, contracts, cheques, and other negotiable instruments and documents may be signed or executed on behalf of the College, and minutes and proceedings of meetings of the Council, Faculty or Senate may be authenticated or evidenced so as to bind the College and be receivable in evidence in accordance with the provisions of the Indian Evidence Act, 1872¹;
- (i) the custody and use of the common seal; and
- (j) generally all such other matters as may be required or authorized under this Act and the said Royal Charter, Statutes and Regulations, so far as they are not inconsistent with this Act.

I of 1872

Act of Act.

15. The provisions of the said Royal Charter and of the Statutes and Regulations made thereunder, so far as they are contrary to or inconsistent with any of the terms of the Act, shall be deemed to be superseded from the date of the commencement of this Act:

Provided that nothing in this Act shall render invalid any acts performed, duties imposed or liabilities incurred prior to the date on which this Act comes into force in accordance with the terms of the said Royal Charter, and of the Statutes and Regulations made thereunder.

¹ General Acts, Vol. II.

of 1918.]

*(Schedule I—Charter of Incorporation of the
Serampore College)*

SCHEDULE I

[See Preamble and sections 2 (1) 14 and 15]

Charter of Incorporation of the Serampore College

WE Frederick the Sixth, by the Grace of God King of Denmark, the Venders and Gothers, Duke of Slesvig Holsten, Stotmain, Ditmarsken, Limesshorg and Oldenboig, by these writings make known and publicly declare, that whereas William Carey and Joshua Marshman, Doctors of Divinity, and John Clark Marshman, Esq., inhabitants of our town of Friederiksnagore (or Serampore) in Bengal, being desirous of founding a College to promote piety and learning particularly among the native Christian population of India, have to secure this object erected suitable buildings and purchased and collected suitable books, maps, etc., and have humbly besought us to grant unto them and such persons as shall be elected by them and their successors to form the Council of the College in the manner to be hereafter named, our Royal Charter of Incorporation that they may the more effectually carry into execution the purposes above-mentioned—We being desirous to encourage so laudable an undertaking have of our special grace and free motion ordained, constituted, granted and declared, and by these presents We do for ourselves, our heirs and successors ordain, constitute, grant and declare—

1. That the said William Carey, Joshua Marshman and John Clark Marshman, and such other person or persons as shall successively be elected and appointed the Council of the said College, in the manner hereafter mentioned, shall by virtue of these presents be for ever hereafter one body politic and incorporate by the name of the Serampore College for the purposes aforesaid to have perpetual succession and to have a common seal and by the said name to sue and to be sued, to implead and be impleaded, and to answer and be answered unto in every court and place belonging to us, our heirs and successors

2. And We do hereby ordain, constitute and declare that the persons hereby incorporated and their

*(Schedule I.—Charter of Incorporation of the
Serampore College.)*

successors shall for ever be competent in law to purchase, hold and enjoy for them and their successors any goods and chattels whatsoever and to receive, purchase, hold and enjoy, they and their successors, any lands, tenements or hereditaments whatever and that they shall have full power and authority to sell, exchange or otherwise dispose of any real or personal property to be by them acquired as aforesaid, unless the sale or alienation of such property be specially prohibited by the donor or donors thereof, and to do all things relating to the said College or Corporation in as ample a manner or form as any of our liege subjects, or any other body politic or corporate in our said kingdom or its dependencies may or can do.

3. And We do hereby ordain, grant and declare that the number of Professors, Fellows or Student Tutors and Students shall be indefinite and that the said William Carey, Joshua Marshman and John Clark Marshman shall be the first Council of the said College, and that in the event of its appearing to them necessary during their lifetime, or in the case of the death of any one of the three members of the said first Council, the survivors or survivor shall and may under their respective hands and seals appoint such other person or persons to be members of the Council of the College, and to succeed each other so as to become members of the said Council in the order in which they shall be appointed, to the intent that the Council of the said College shall for ever consist of at least three persons.

4. And We do hereby further ordain, grant and declare, that for the better government of the said College and the better management of its concerns, the said William Carey, Joshua Marshman and John Clark Marshman, the members of the first Council, shall have full power and authority for the space of ten years from the date of these presents, to make and establish such Statutes as shall appear to them useful and necessary for the government of the said College, in which Statutes they shall define the powers to be entrusted to their successors, to the Professors, the Fellows or Student Tutors and the other officers thereof, and the duties to be performed by these respectively for the management of the estates, lands, revenues and goods—and of the business of the said College, and the manner of proposing, electing, admitting and removing all and every one of the Council, the

of 1918.]

(Schedule I — Charter of Incorporation of the Serampore College)

Professors, the Fellows or Tutors, the officers, the students and the servants thereof, and shall make and establish generally all such other Statutes as may appear to them necessary for the future good government and prosperity of the said College, provided that these Statutes be not contrary to the laws and Statutes of our realm

5. And We do hereby further ordain, grant and declare that the Statutes thus made and established by the said three members of the first Council and given or left in writing under their respective hands, shall be valid and in full force at the expiration of ten years from the date of these presents, so that no future Council of the College shall have power to alter, change or vary them in any manner whatever, and that the Statutes shall for ever be considered the constitution of the said College. And We do hereby appoint and declare that these Statutes shall be made and established by the said William Carey, Joshua Marshman and John Clark Marshman alone, so that in case either of them should die before the expiration of ten years, the power of completing or perfecting these Statutes shall devolve wholly on the survivors or survivor, and that in case all three of them should die before the expiration of ten years, the Statutes which they have left in writing under their hands, or under the hand of the last survivor among them, shall be considered "The Fundamental Statutes and Constitution of Serampore College", incapable of receiving either addition or alteration, and shall and may be registered in our Royal Court of Chancery as "The Statutes and Constitution of Serampore College".

6. And We do hereby further appoint, grant and declare that from and after the completion of the Statutes of the said College in the above said time of ten years, the said Council of the College shall be deemed to consist of a Master or President and two or four members who may be Professors or otherwise as the Statutes may direct so that the said Council shall not contain less than three, nor more than five persons, as shall be defined in the Statutes. The Council shall ever be elected as the Statutes of the College may direct, yet the said Master or President shall always previously have been a member of the College; and upon the decease of the said Master or President, the Council of the said College shall be unable to do any act or deed until the appointment of a new Master or

*(Schedule I:—Charter of Incorporation of the
Serampore College.)*

President, save and except the appointment of such a Master.

7. And We further appoint, grant and declare that the said William Carey, Joshua Marshman and John Clark Marshman, the members of the first Council, and their successors for ever, shall have the power of conferring upon the students of the said College, native Christians as well as others, degrees of rank and honour according to their proficiency in as ample a manner as any other such College, yet the said Serampore College shall only have the power of conferring such degrees on the students that testify their proficiency in Science, and no rank or other special right shall be connected therewith in our dominions. And We do hereby further appoint, grant, and declare, that after the expiration of the said ten years, the said Council of the College and their successors for ever shall have power to make and establish such orders and by-laws as shall appear to them useful and necessary for the government of the said College, and to alter, suspend or repeal those already made, and from time to time make such new ones in their room as shall appear to them most proper and expedient provided the same be not repugnant to the Statutes of the College or the laws of our realm, and that after the expiration of these ten years any member of the Council shall have power to move the enactment of any new by-law, or the alteration, suspension or repeal of any existing one provided notice of such motion shall have been delivered in writing to the Master and read from the Chair at one previous meeting of the Council of the said College, but that no such motion shall be deemed to have passed in the affirmative, until the same shall have been discussed and decided by ballot at another meeting summoned especially for that purpose, a majority of the members then present having voted in the affirmative; and in this as in all other cases, if the votes be equal, the Master or President shall have the casting vote.

Given at our Royal Palace in Copenhagen on the twenty-third day of February in the year of our Lord one thousand eight hundred and twenty-seven, in the nineteenth year of our reign.

Under our Royal Hand and Seal.

FREDERICK R.

of 1918.]

*(Schedule II —Statutes and Regulations of the
Serampore College)*

SCHEDULE II

[See Preamble and sections 10 (f) 14 and 15]

Statutes and Regulations of the Serampore College
June 12th, 1833

1. Article the Third of the Charter granted by His Danish Majesty, having authorized the first Council of Serampore College in their life time to nominate under their band and seal such other person or persons for colleagues or successors as may to them appear most proper so that the Council shall always consist of at least three persons, their successors in the Council shall be competent in like manner to nominate in their life-time under their separate hand and seal such person or persons as they may deem most proper to fill vacancies then existing or which may occur on their demise, members thus nominated and chosen shall succeed to the Council in order of their nomination

2. It being fixed in the Charter that the Council must consist of the Master or President and at least two, but not more than four members, and that on the demise of the Master no act shall be done until another be elected, the Master and Council for the time being shall appoint the next Master under their separate hand and seal. If on the demise of a Master no one be found thus appointed under the hand and seal of a majority of the Council, the senior member of the Council shall succeed as Master

3. The Charter having given the casting vote to the Master, in all cases when the votes are equal the casting vote shall lie with the Master, and if there be no Master, it shall lie with the Senior Member of the Council

4. Learning and piety being peculiar to no denomination of Christians, one member of the Council may at all times be of any other denomination besides the Baptist to preserve the original design of the Institution. However if on the election of a Master a number of the Council be equally divided, that part which is entirely of the Baptist denomination shall have the casting vote, whether it includes the Master or not

[Ben. Act IV of 1918.]

*(Schedule II.—Statutes and Regulations of the
Serampore College.)*

prize for the encouragement of learning in the same manner as in Universities of Great Britain, regulating such endowment according to their own will; and it shall be the duty of the College Council to carry such benefactions into effect in strict consonance with the will of the donors as far as shall be consistent with the Statutes of the College.

16. It shall be lawful for the first Council of the College or their successors to make and rescind any by-laws whatever, provided they be not contrary to these Statutes.

17. The Charter having declared that the number of the Professors and Students in Serampore College remains unlimited, they shall be left thus unlimited, the number to be regulated only by the gracious providence of God and the generosity of the public in India, Europe and America.

BENGAL ACT No. V OF 1918.

[THE CHITTAGONG PORT (AMENDMENT)
ACT, 1918].¹

[18th September, 1918.]

*An Act to amend the Chittagong Port Act, 1914.*Ben Act V
of 1914WHEREAS it is expedient to amend the Chittagong Port Act, 1914,² in the manner hereinafter appearing;

It is hereby enacted as follows :—

1. This Act may be called the Chittagong Port Short title
(Amendment) Act, 1918.

Ben Act V
of 1914

2. In section 58 of the Chittagong Port Act, Amendment of
section 58 of
Bengal Act V of
1914
1914,—

(1) sub-section (2), and

(2) in sub-section (3), the words, figure and brackets "Subject to the limits enacted by sub-section (2)",

shall be omitted.

¹ For Statement of Objects and Reasons, see *Calcutta Gazette*, 1918, Pt IV, p 180, and for Proceedings in Council, see *ibid*, Pt IVA, pp 921—924

² Bengal Code, Vol III

BENGAL ACT No. I OF 1919.
THE CALCUTTA HACKNEY-CARRIAGE
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BENGAL ACT No. I OF 1919.

(THE CALCUTTA HACKNEY-CARRIAGE ACT,
1919).¹

[15th January 1919.]

An Act to consolidate and amend the law relating to hackney-carriages and palanquins and to make certain provisions with regard to rickshaws in Calcutta.

WHEREAS it is expedient to amend the law relating to hackney-carriages and palanquins and to make certain provisions with regard to rickshaws in Calcutta,

It is hereby enacted as follows —

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Calcutta Hackney-carriage Act, 1919,

Short title,
commencement
and extent

(2) It shall come into force on such date² as the Local Government may, by notification, direct, and

(3) It shall apply in the first instance only to Calcutta

2. The Local Government may, by notification³,—

Further
provisions as
to extent

(a) extend this Act, or any portion thereof, to any other town or local area, or

(b) exclude from, or include in, Calcutta, or any other town or local area to which this Act is extended under clause (a), any local area in the vicinity of the same and defined in the notification

Provided that no notification under this section shall be published in respect of any area included in a Military Cantonment without the previous sanction of the Governor General in Council,

¹ Reasons see *Calcutta Gazette* 1918 Pt. IV, p. 43, *ibid*, Pt. IVA, pp. 297-299 and 810-816 and

notification No. 1781M., dated the 17th June 1919,

Legal Local Statutory Rules and Orders

[Ben. Act I

(Chapter I.—Preliminary.—Secs. 3, 4.)

Provided also that, before finally publishing any notification under this section, the Local Government shall publish a draft of the same in such manner as they may think fit, and any rate-payer or inhabitant of the area affected by such draft may, if he objects to the draft, submit his objection in writing to the Local Government within six weeks from its publication, and the Local Government shall take such objection into consideration.

3. (1) The Calcutta Hackney-carriage Act, 1891, is hereby repealed.

(2) This repeal shall not affect the validity of anything done or suffered, or of any right, title, obligation or liability which may have accrued under the said Act; and all registrations made, licenses issued, penalties incurred, and other things duly done under the said Act shall, so far as they are consistent with this Act, be deemed to have been respectively made, issued, incurred or done hereunder.

(3) All proceedings now pending, which may have been commenced under the said Act, shall be deemed to be commenced under this Act.

4. In this Act, unless there is something repugnant in the subject or context,—

(1) “bearer” when used with reference to rickshaws includes any person employed to draw or push a rickshaw;

(2) “Calcutta” means, subject to the exclusion or inclusion of any local area by notification under clause (b) of section 2, the area described in Schedule I to the Calcutta Municipal Act, 1899¹;

Ben. Act.
of 1899.

(3) “the Commissioner of Police” means the officer appointed under section 4 of the Calcutta Police Act, 1866²;

Ben. Act.
of 1866.

¹ Bengal Act III of 1899 has been repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben. Act III of 1923), and this reference should now be construed as a reference to Schedule I of the latter Act.

²Bengal Code, Vol. II.

of 1919.]

(Chapter II—Registration of Hackney-carriages—
Secs 5, 6)

(4) "hackney-carriage" means any wheeled vehicle, drawn by boises and used for the conveyance of passengers, which is kept, offered or ples for hire by the hour or day or according to distance,

(5) ' horse" includes mule and pony,

(6) "notification" means a notification published in the *Calcutta Gazette*,

(7) "palanquin" means a vehicle for the conveyance of passengers which is carried by men,

(8) "rickshaw" means a two-wheeled vehicle for the conveyance of passengers which is drawn by a mau or men, and

(9) "stage-carriage" means any hackney-carriage, the passengers in which pay or are charged separate and distinct fares, or pay or are charged at the rate of separate and distinct fares for their respective plices or sets therein or conveyance thereby

CHAPTER II

REGISTRATION OF HACKNEY-CARRIAGES

5. Every hackney-carriage in Calcutta shall be annually registered by a Registering Officer, on such date as the Commissioner of Police may direct.

Hackney
carriages to be
registered
annually

6. (1) The Registering Officer shall be a Deputy Commissioner of Police specially appointed by the Local Government for this purpose, and he shall keep a register in which he shall enter every hackney-carriage under the class prescribed therefor by by-law made under section 71.

Duties of Regis-
tering Officer

(2) Every act, matter or thing done by the Registering Officer, under or by virtue of this Act, shall be subject to the control of the Commissioner of Police

(Chapter II.—Registration of Hackney-carriages.—
Secs. 7—10.)

Power to Registering Officer to delegate his functions.

7. The Registering Officer may, with the sanction of the Commissioner of Police, by general or special order in writing, delegate to any police-officer, not below the rank of sergeant, all or any of the powers and duties conferred or imposed upon the Registering Officer by this Act or any by-law made thereunder, except those conferred or imposed upon him by sections 8, 9, 12, 24, 25, 30, 32 and 61.

Procedure for registration.

8. (1) Any person who is desirous of registering a hackney-carriage, shall apply to the Registering Officer, stating the class in which he desires that the carriage may be registered, and shall submit the carriage for the inspection of the Registering Officer.

(2) The Registering Officer shall satisfy himself that the municipal tax imposed upon such carriage for the current half-year has been paid, and decide whether the carriage is fit to be registered in the class applied for, and shall register it in that class or refuse to grant the application.

(3) The person in whose name any carriage is registered shall be deemed to be the owner of such carriage for the purposes of this Act.

License for carriage.

9. (1) The Registering Officer shall, at the time of registration, upon payment of such fee as may be fixed by by-law made under clause (f) of section 71, deliver a license, duly signed by him, to the owner of every hackney-carriage.

(2) Such license shall, if not cancelled or suspended, continue in force for one year from the first day of the month in which the carriage is registered.

Particulars of register license.

10. The following particulars shall be entered in the register, and shall be specified in the license to be given to the owner :—

(a) the class, and the number assigned to the carriage in the register ;

(b) the name and residence of the owner, the description of the carriage, and the place where such carriage is to be kept ;

of 1919.]

(Chapter II—Registration of Hackney-carriages —
Secs 11—13)

- (c) the number and description of horses to be employed in drawing such carriage,
- (d) the number of passengers the carriage is licensed to carry,
- (e) the date on which the license was granted, and
- (f) such other particulars as may be prescribed by by-law made under section 71,

and a certified copy of such particulars shall be furnished to every person applying for the same on payment of a fee of eight annas

11. (1) The owner of every hackney-carriage registered under this Act shall, on receipt of a notice in writing in this behalf, produce the carriage before the Registering Officer, for inspection, at such time as may be specified in the notice within two weeks after the expiration of six months from the date of every such registration

Production of
carriages for
inspection half
yearly

(2) If the owner of any such carriage fails to produce the same for inspection in accordance with the provisions of sub-section (1), he shall be liable to a fine not exceeding five rupees for every day during which, after the expiry of the period specified in sub-section (1) and before the carriage is produced for inspection, the carriage is used as a hackney-carriage, and, in default of payment of fine, to simple imprisonment for a period not exceeding fourteen days

12. The Registering Officer may cancel or suspend, for such period as he thinks fit, the registration of any carriage and the license granted to the owner under this Act, whenever it appears to him that such carriage is unfit for public use or the horse used therewith is not licensed for that class of carriage, or the harness used with such horse is unfit for public use

Registration of
carriage and
owner's license
may be cancelled
or suspended

13. (1) Whenever any change takes place in the ownership of a hackney-carriage, if the person to whom such carriage is transferred desires to use it as

Notice to be
given of change
of ownership

[Ben. Act I

*(Chapter II.—Registration of Hackney-carriages.—
Secs. 14, 15.)*

a hackney-carriage, he shall, before so using it, give to the Registering Officer notice in writing of such transfer.

(2) Every such notice shall contain the particulars specified in clauses (a), (b) and (c) of section 10.

(3) If any such person, before giving such notice as aforesaid, uses such carriage as a hackney-carriage, he shall be liable to a fine not exceeding five rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding seven days.

(4) Every owner of a hackney-carriage registered under this Act shall, within fourteen days of the transfer of such carriage to another person, or of the discontinuance of the use of the carriage as a hackney-carriage, give notice thereof to the Registering Officer, in the case of a transfer stating the name and residence of the transferee.

(5) If any such owner fails to give notice in accordance with the provisions of sub-section (4), he shall be liable to a fine not exceeding five rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding seven days.

Notice to be
given of change
of owner's resi-
dence or place
where carriage is
kept.

14. (1) Whenever the owner of a hackney-carriage registered under this Act changes his residence or the place where such carriage is kept, he shall, within one week from the date of such change, give to the Registering Officer a notice in writing thereof.

(2) Every such owner who neglects to give such notice shall be liable, for every such offence, to a fine not exceeding five rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding seven days.

Change of
ownership or
residence to be
entered in regis-
ter.

15. The Registering Officer, on receiving a notice under section 13, sub-section (1) or (4), or section 14, sub-section (1), or after a conviction under section 13, sub-section (3) or (5), or section 14, sub-section (2), shall make the necessary alteration in the register and in the license.

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of 1919.]

*(Chapter II—Registration of Hackney-carriages—**Sec 16)*

16. (1) If any hackney-carriage is used as such without having been duly registered under this Act, the owner of such carriage shall be liable to a fine not exceeding one hundred rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding three months

Penalty for
using unregistered
carriage

(2) Any police-officer, or any person duly authorized by the Commissioner of Police in that behalf may seize such carriage together with the horses and harness thereof and remove the same to a police-station

Provided that, if it be proved on arrival at the police-station or afterwards that any horse so removed has been duly registered under this Act with its harness, that horse and harness shall be released forthwith

Provided also that any carriage so removed shall be released on the owner thereof furnishing security to the satisfaction of the officer in charge of the police-station for the production of the carriage when required

(3) Any carriage seized under sub-section (2) which is not released under the second proviso thereto, may be detained at the police station or sent to the Registration office and detained there, until any fine imposed by the Magistrate has been paid

(4) If the hackney-carriage so seized be not claimed and if any fine imposed be not paid, together with any costs or charges incurred, within fifteen days of such seizure or imposition of such fine, respectively, such carriage may be sold by auction, after previous advertisement of such auction, and the sale-proceeds applied to the payment of the fine and all costs and charges incurred on account of the detention and sale

(5) The surplus, if any, if not claimed by the owner within a further period of one month, shall be credited and applied in the same manner as fees and fines realized under this Act.

[Ben. Act I.]

*(Chapter III.—Plate on Hackney-carriage.—
Secs. 17—20.)*

CHAPTER III.

PLATE ON HACKNEY-CARRIAGE.

Plate to be
affixed outside
carriage.

17. Upon the registration of any hackney-carriage, the Registering Officer shall cause to be affixed on some conspicuous part of the outside of such carriage a plate, bearing the class and the number of such carriage in the register and the number of passengers which it is licensed to carry.

Penalty for
using carriage
without plate.

18. If any hackney-carriage is let, used or plies for hire without having a proper plate affixed thereto under this Act, the owner thereof shall be liable to a fine not exceeding fifty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding fourteen days.

Owner entitled
to new plate on
loss or obliteration
of former one.

19. If, during the year of registration, the words or figures on any plate affixed to a hackney-carriage become indistinct or obliterated, or if the plate is lost or stolen, the owner of such carriage shall produce the carriage before the Registering Officer and, after proving the loss of the plate or on delivering the defective plate, to the Registering Officer, as the case may be, shall be entitled to have a new plate affixed upon payment of a fee of eight annas :

Provided that if any plate, in lieu of which a new plate has been affixed under this section, be afterwards recovered, the same shall forthwith be delivered to the Registering Officer.

Penalty for
using obliterated
plate or for fail-
ing to deliver lost
plate when re-
covered.

20. Every owner of a hackney-carriage registered under this Act who uses or permits to be used any plate after the writing thereon has become indistinct or obliterated,

and every person into whose possession any plate which has been lost or stolen comes, and who refuses or wilfully neglects for three days to deliver the same to the Registering Officer as required by the proviso to section 19,

of 1919.]

(Chapter III—Plate on Hackney-carriage—
Secs 21—23)

shall, for every such offence, be liable to a fine not exceeding ten rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding seven days

21. (1) Upon the expiration or other determination of the registration of a hackney-carriage, the owner of such carriage shall cause the plate affixed thereto under this Act to be delivered to the Registering Officer

Plate to be delivered on expiration of registration

(2) Any person who, after the expiration of the period aforesaid, wilfully neglects for seven days to deliver the plate to the Registering Officer,

and every person who uses or retains any plate affixed in respect of a registration which is no longer in force,

shall, for every such offence, be liable to a fine not exceeding fifty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding fourteen days

22. Whenever the Registering Officer cancels or suspends for any period, under section 12, the registration of any hackney-carriage he shall take possession of the plate affixed to such carriage under this Act

Power to take possession of plate on cancellation or suspension of registration

23. (1) Every person who, for the purpose of deception or with a view to avoiding any of the provisions of this Act,

Penalty for using or having counterfeit plate

(i) uses or has in his possession any plate resembling or intended to resemble any plate affixed under this Act, or

(ii) uses, affixes or has in his possession any plate issued under this Act,

shall, for every such offence, be liable to a fine not exceeding one hundred rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding one month.

*(Chapter IV.—Registration and Identification of
Horses.—Secs. 24—26.)*

(2) The Registering Officer or any police-officer, may seize any plate used or had as aforesaid, wherever the same may be found.

(3) Whenever a police-officer seizes any plate under sub-section (2), he shall forthwith deliver it to the Registering Officer.

CHAPTER IV.

REGISTRATION AND IDENTIFICATION OF HORSES.

24. Every horse used, or intended to be used, for drawing a hackney-carriage, together with the harness of such horse, shall be annually registered by the Registering Officer at the time and in the manner provided by Chapter II with respect to the registration of hackney-carriages :

Provided that the Registering Officer may refuse to register any horse if such horse or its harness appears to him to be unserviceable or unfit for public use.

25. (1) The Registering Officer shall, at the time of registration, upon payment of such fee as may be fixed by by-law made under clause (f) of section 71, deliver a license, duly signed by him, to the owner of every horse.

(2) Such license shall, if not cancelled or suspended, continue in force for one year from the first day of the month in which the horse is registered.

26. (1) The following particulars shall be entered in the register, and shall be specified in the license to be given to the owner, namely :—

(a) the class of the hackney-carriage with which the horse is to be used, and whether it is to be used singly or in a pair ;

(b) the name and residence of the owner ;

(c) the number assigned to the horse in the register ;

(d) the place where it is intended to keep the horse ;

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*(Chapter IV — Registration and Identification of
Horses — Secs 27, 28)*

- (e) the date on which the license was granted, and
(f) such other particulars as may be prescribed by
by-law made under section 71,

and a certified copy of such particulars shall be
furnished to every person applying for the same on
payment of a fee of eight annas

(2) All the provisions of this Act in any way
relating to the notification to the Registering Officer
of the change of ownership and of residence of the
owners of hackney-carriages and of the place where
such carriages are kept shall be applicable in like
manner to the owners of licensed horses

(3) The person in whose name a horse is for the
time being registered shall be deemed to be the owner
of such horse for the purposes of this Act

27. (1) The owner of every horse registered under
this Act shall on receipt of a notice in writing in this
behalf, produce the horse and the harness used there-
with before the Registering Officer, for inspection, at
such time as may be specified in the notice within
two weeks after the expiration of six months from the
date of every such registration

Production of
registered horses
for inspection
half yearly

(2) If the owner of any such horse fails to produce
the same with its harness in accordance with the
provisions of sub-section (1) he shall be liable to a
fine not exceeding two rupees for every day during
which, after the expiry of the period specified in sub-
section (1) and before the horse is produced for inspec-
tion, the horse is used to draw a hackney-carriage,
and, in default of payment of fine, to simple imprison-
ment for a period not exceeding fourteen days

Provided that, before prosecuting the owner under
this sub-section, the Registering Officer shall consider
any explanation for the failure to produce the horse
with its harness that may be put forward by the
owner.

28. Upon the registration of any horse, the
Registering Officer shall cause to be attached or
applied to such horse such mark of identification as
may be prescribed by by-law made under section 71.

Identification of
horses

1919.

[Ben. Act I

*(Chapter IV.—Registration and Identification of
Horses.—Secs. 29, 30.)*

Penalty for
using horse not
bearing identi-
fication mark.

29. (1) If any horse is employed for drawing a hackney-carriage let or used or plying for hire without bearing a mark of identification attached or applied to it under this Act, the owner of such horse shall be liable to a fine not exceeding fifty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding fourteen days.

(2) Any police-officer, or any person duly authorized by the Commissioner of Police in that behalf, may seize such horse with its harness and remove the same to a police-station :

Provided that any horse with its harness so removed shall be released on the owner thereof furnishing security to the satisfaction of the officer in charge of the police-station, for the production of the horse and its harness when required.

(3) Any horse with its harness seized under subsection (2) which is not released under the proviso thereto, may be detained at the police-station or sent to the Registration Office and detained there, until any fine imposed by the Magistrate has been paid.

(4) If the horse and the harness so seized be not claimed and if any fine imposed be not paid, together with any costs or charges incurred, within fifteen days of such seizure or imposition of such fine, respectively, such horse and its harness may be sold by auction, after previous advertisement of such auction, and the sale-proceeds applied to the payment of the fine and all costs and charges incurred on account of the detention and sale.

(5) The surplus, if any, if not claimed by the owner within a further period of one month, shall be credited and applied in the same manner as fees and fines realized under this Act.

Cancellation or
suspension of
registration of
horse and owner's
license.

30. The Registering Officer may cancel, or may suspend for such period as he thinks fit, the registration of any horse and the license granted to the owner under this Act, whenever it shall appear to him that such horse or the harness used therewith is unfit for public use.

of 1919.]

*(Chapter IV — Registration and Identification of
Horses — Chapter V — Driver's License and Ticket —
Secs 31—33)*

31. All the provisions of this Act in any way relating to the renewing producing, using, or taking possession of plates affixed to hackney-carriages shall, in like manner and so far as the same may reasonably be applied, be applicable to the marks of identification attached or applied to horses

Application of certain provisions relating to hackney-carriages to horses

CHAPTER V

DRIVER'S LICENSE AND TICKET

32. (1) No person shall act as a driver of a hackney-carriage without a license granted by the Registering Officer

Driver of hackney-carriage to have license

(2) No person shall be so licensed unless the Registering Officer, after due inquiry, is satisfied—

(a) that he is competent to drive a hackney-carriage, and has a sufficient knowledge of localities in Calcutta,

(b) that he is of sober habits, and has not been convicted of any offence which in the opinion of the Registering Officer, is of such a nature as to render him unfit to hold a driver's license, and

(c) that he is not less than eighteen years of age

33. (1) Every license granted under section 32, sub-section (1), shall contain—

Particulars and duration of license

(a) the number of the license;

(b) the name, father's name, place of abode and age of the person to whom such license is granted,

(c) the date on which the license was granted, and

(d) a summary of the more important statutory provisions and by-laws affecting drivers of hackney-carriages,

and shall bear the signature of the Registering Officer.

[Ben. Act 1.]

*(Chapter V.—Driver's License and Ticket.—
Secs. 34—36.)*

(2) Every license granted under section 32, sub-section (1), shall, if not cancelled or suspended, continue in force for one year from the first day of the month in which it is granted, and shall thereafter be renewed, provided that the Registering Officer is satisfied that the driver continues to fulfil the conditions prescribed by clauses (a) and (b) of sub-section (2) of that section.

(3) For every such license and for every renewal thereof there shall be paid a fee of two rupees.

Notice to be
given of change
of driver's
residence.

34. (1) Whenever a driver licensed under this Act changes his residence, he shall, within one week from the date of such change, give to the Registering Officer a notice in writing thereof.

(2) Every such driver who neglects to give such notice shall be liable, for every such offence, to a fine not exceeding five rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding seven days.

Penalty for not
having license, or
lending it out.

35. If any person acts as the driver of a hackney-carriage, without holding a license in force for the time being,

or transfers, or lends his license, or allows the same to be used by any other person,

he shall, for every such offence, be liable to a fine not exceeding twenty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding ten days.

Penalty for
permitting un-
licensed person to
act as driver.

36. If any owner of a hackney-carriage permits any person, who has not obtained a driver's license, or whose license has either expired or been cancelled or suspended, to drive such carriage for hire, he shall be liable, for every such offence, to a fine not exceeding fifty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding fourteen days;

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*(Chapter V —Driver's License and Ticket —
Secs 37—39)*

Provided that such owner and such licensed driver shall be subject to all the provisions of this Act, for any act done or omitted to be done by such driver during such employment, in like manner as if such driver had been duly licensed

37. The particulars of every license which is granted under section 32 shall be entered in the register to be kept for that purpose at the office of the Registering Officer, and a certified copy of such particulars shall be furnished to every person applying for the same on payment of a fee of eight annas

Particulars of license to be registered and copy given on payment of fee

38. (1) The Registering Officer shall, at the time of granting a license to any driver of a hackney-carriage, deliver to him a metal ticket bearing the number of his license

Driver to wear metal ticket

(2) Every driver to whom such ticket is delivered shall, at all times while acting as driver or while attending before any Magistrate, carry such ticket exposed to view

(3) In case any such driver omits to wear such ticket exposed to view while acting as driver or attending before a Magistrate, he shall be liable to a fine not exceeding ten rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding seven days.

39. If, during the term of the license, the number on any ticket becomes indistinct or obliterated or the ticket is lost or stolen, the licensed driver shall produce his license before the Registering Officer, and on proving the loss of the ticket or on delivering the defective ticket to the Registering Officer, as the case may be, shall be entitled to have a new ticket upon payment of a fee of eight annas.

Driver entitled to new ticket on loss or obliteration of former one

Provided that, if any ticket, in lieu of which a new ticket has been issued under this section, be afterwards recovered, the same shall forthwith be delivered to the Registering Officer.

*(Chapter V.—Driver's License and Ticket.—
Secs. 40—42.)*

Penalty for
using obliterated
ticket or for
failing to deliver
lost ticket when
recovered.

40. Every driver licensed under this Act who uses or wears the ticket granted to him after the number thereon has become indistinct or obliterated,

and every person into whose possession any ticket which has been lost or stolen comes and who refuses or wilfully neglects for three days to deliver the same to the Registering Officer as required by the proviso to section 39,

shall, for every such offence, be liable to a fine not exceeding ten rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding seven days.

License
ticket to
delivered
expiry

and
be
or.

41. (1) Upon the expiration or other determination of any license granted to a driver under this Act, such driver shall deliver his license and ticket to the Registering Officer.

(2) Every driver who wilfully neglects for seven days to deliver such expired license and ticket to the Registering Officer,

and every person who uses, wears or retains any such expired license or ticket or any license or ticket other than such as shall have been delivered to him under the provisions of this Act,

and every person to whom any ticket has been delivered under this Act, who lends or transfers such ticket, whether current or expired, to any other person,

and every person who wears or uses the ticket of any other person,

shall, for every such offence, be liable to a fine not exceeding fifty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding fourteen days.

Power to take
possession of
driver's ticket
on cancellation or
suspension of
registration

42. Whenever the Registering Officer cancels or suspends for any period, under section 12 or section 30, the registration of any hackney-carriage or horse, as the case may be, he shall take possession of the ticket which was delivered to the driver of such carriage under section 38 or section 39.

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*(Chapter V—Driver's License and Ticket —
Secs 43—46)*

43. (1) Every person who, for the purpose of deception, uses or wears any ticket resembling or intended to resemble any ticket granted under section 38 or section 39 shall, for every such offence, be liable to a fine not exceeding one hundred rupees, and in default of payment of fine, to simple imprisonment for a period not exceeding one month

Penalty for
using or
wearing
counterfeit
ticket

(2) The Registering Officer or any police officer may seize any such expired counterfeit ticket wherever the same may be found

(3) Whenever a police-officer seizes any expired or counterfeit ticket under sub-section (2) he shall forthwith deliver it to the Registering Officer

44. Whenever any driver is summoned to appear before any Magistrate to answer any charge preferred against him under this Act, he shall carry with him his license, and produce the same if required so to do, and any driver who, on such requisition, fails to produce such license shall, for every such offence, be liable to a fine not exceeding five rupees and, in default of payment of fine to simple imprisonment for a period not exceeding five days

Penalty for
failing to
produce
license before
Magistrate

45. Whenever a Magistrate convicts a driver of any offence punishable under this Act, or warns him of his liability to punishment for any such offence or reprimands him in respect of his conduct as a driver, the Magistrate shall endorse on the driver's license—

Endorsement
of conviction,
warning or
reprimand
on license

(a) the nature of the offence for which the driver was convicted, the date of the conviction and the penalty imposed, or

(b) the warning or reprimand given,

as the case may be, and shall inform the Registering Officer of every such endorsement

46. (1) Any Magistrate before whom any driver is convicted of any offence, whether under this Act or under any other Act, may cancel his license or may suspend the same for such period as the Magistrate

Revocation or
suspension
of driver's
license on
conviction

*(Chapter V.—Driver's License and Ticket.—
Sec. 47.)*

thinks fit, and for that purpose may require the driver, or any other person in whose possession such license and the ticket thereto belonging shall then be, to deliver up the same.

(2) Every driver or other person who, on being so required, refuses or neglects to deliver up the license and ticket, shall be liable, for every such offence, to a fine not exceeding twenty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding ten days.

(3) The Magistrate shall forward every license and every ticket delivered to him under sub-section (1) to the Registering Officer, together with a memorandum of his sentence in the case.

(4) The Registering Officer shall enter the fact of such sentence in the register referred to in section 37, and if the license has been suspended, the Registering Officer shall, on application at the end of the period of suspension, re-deliver such license and ticket to the person to whom they were granted.

47. (1) If it appears to the Registering Officer that any licensed driver is not a fit person to drive a hackney-carriage, he may cause a notice to be served on such driver, requiring him to appear before the Registering Officer, at such time as may be specified in the notice, for re-examination. Every such notice shall state the reasons for such re-examination.

(2) (a) If such driver fails to appear in pursuance of the notice served under sub-section (1), or

(b) if, upon his appearance, the Registering Officer finds that he is not a fit person to drive the hackney-carriage, or

(c) if the owner of the carriage or of the horse used therewith on being summoned to produce the driver to answer any charge preferred against him under this Act fails to do so,

Power to
Registering
Officer to
cancel or
suspend
driver's
license

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*(Chapter VI —Fares, Hiring and Plying for Hire —
Secs 48, 49)*

the Registering Officer may cancel the driver's license or may suspend the same for such period as he thinks fit, and may for that purpose require the driver, or any other person in whose possession such license or the ticket thereto belonging may then be, to deliver up the same

Provided that, before passing an order under clause (c), the Registering Officer shall consider any explanation for the failure that may be put forward by the driver or the owner, as the case may be.

(3) Every driver or other person who fails to comply with any requisition made upon him under sub-section (2) shall be liable, for every such offence, to a fine not exceeding twenty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding ten days

CHAPTER VI

FARES, HIRING AND PLYING FOR HIRE.

48. (1) The owner of every hackney-carriage registered under this Act shall cause to be put up, in such manner and in such position as may be directed by the Registering Officer, on the inside of such carriage, a list in such language or languages as the Local Government may, by notification, prescribe, showing the amount of fare according to distance and time which may be demanded and taken from the hirer of such carriage

Owner to keep
list of fares inside
carriage

(2) Every owner who fails to comply with the provisions of this section shall, for every such offence, be liable to a fine not exceeding ten rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding seven days

49. (1) The driver of every hackney-carriage registered under this Act shall drive such carriage to any place which is not more than six miles from the place where the same has been hired, to which he shall be required by the hirer thereof to drive the same

Maximum
distance to which
driver is bound to
drive

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[**Ben. Act***(Chapter VI.—Fares, Hiring and Plying for Hire.—**Secs. 50, 51.)*

(2) When any carriage is hired by time, the driver thereof shall drive the same at a rate not less than six miles an hour in the case of first and second class carriages, and five miles an hour in the case of any other class of carriage.

(3) Any such driver who, without sufficient excuse (the burden of proving which excuse shall lie upon him), fails to comply with the provisions of this section shall be liable to a fine not exceeding twenty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding ten days.

Penalty for
refusing to let a
carriage for hire.

50. Any owner, driver, or person in charge of any hackney-carriage registered under this Act, who, without sufficient excuse (the burden of proving which excuse shall lie upon him), refuses to let such carriage for hire, shall, on the complaint of the aggrieved party or of any public officer or servant, be liable, for every such offence, to a fine not exceeding fifty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding fourteen days; and shall also pay to the party complaining such compensation as the Magistrate thinks fit.

Penalty on
driver and
attendant for
certain offences.

51. Every driver or attendant of a hackney-carriage who—

- (a) is drunk during his employment;
- (b) makes use of insulting or abusive language or gesture during his employment;
- (c) stands (elsewhere than at some stand or other place appointed for the purpose) or loiters, for the purpose of being hired, in or upon any public street, road or place;
- (d) suffers his carriage to stand for hire across any street or alongside of any other carriage;
- (e) refuses to give way (when he reasonably and conveniently may do so) to any other carriage;

of 1919.]

(Chapter VI—*Fares, Hiring and Plying for Hire*—
Sec 51)

- (f) wilfully obstructs or hinders the driver of any other carriage in taking up or setting down any passenger into or from, such other carriage,
- (g) wrongfully prevents or endeavours to prevent the driver of any other carriage from being hired,
- (h) demands or takes more than the proper fare to which he is legally entitled,
- (i) refuses to admit and carry in his carriage the number of passengers which such carriage is licensed to carry,
- (j) carries more than such number of passengers,
- (k) refuses to carry by his carriage such quantity of luggage as is prescribed by by-law made under section 71,
- (l) being hired, permits or suffers any person to be carried in, or upon, or about such carriage during such hire, without the consent of the person hiring the same,
- (m) drives in the carriage any animal which is not so secured as to be under the control of the driver,
- (n) refuses to let a carriage on hire by time or distance as the huer may require,
- (o) being hired by time or distance, before he has been discharged by the huer, wilfully deserts from the hiring,
- (p) plies for hire with any carriage or horse which shall be at the time unfit for public use,
- (q) disobeys any direction given by a police-officer for the regulation of traffic and the control of carriages on hackney-carriage stands;
- (r) leaves his carriage unattended in any street or public place,
- (s) allows his carriage to be used by any person for the purpose of soliciting any other person to immorality,

1919.

[Ben. Act I

(Chapter VI.—Fares, Hiring and Plying for Hire.—
Secs. 52, 53.)

shall be liable to a fine not exceeding one hundred rupees, or to imprisonment for a period not exceeding two months.

Penalty on
driver for refusing
to attend at pre-
mises of owner

52. Any licensed driver, employed as a driver by the owner of any hackney-carriage registered under this Act, who, without sufficient excuse, refuses or neglects to attend at the premises where such carriage is kept for the purpose of driving any such carriage, whereby such owner is prevented from letting out the same, shall be liable, for each offence, to a fine not exceeding ten rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding seven days.

Owner may be
summoned to
appear before
Magistrate and
to produce driver
or attendant.

53. (1) When a complaint is made before a Magistrate against the driver or attendant of a hackney-carriage registered under this Act for any offence committed by him against the provisions of this Act, or any by-law made thereunder, such Magistrate may, if the driver or attendant fails to appear, forthwith summon the owner of the carriage or of the horse used therewith, or both such owners, as he may consider necessary, personally to appear and to produce the driver or attendant of such carriage to answer the complaint.

(2) If any such owner, without reasonable excuse, neglects or refuses to appear personally, or to produce the driver or attendant in compliance with a summons issued under sub-section (1), he shall be liable to a fine not exceeding fifty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding fourteen days, and so from time to time, as often as he shall be so summoned, until such driver or attendant shall be produced by him :

Provided that if such owner, without reasonable excuse, neglects or refuses to appear personally, or to produce such driver or attendant on the second or any subsequent summons requiring him so to do, the Magistrate may proceed to hear and determine the complaint in the absence of the owner and the driver or attendant, as the case may be, or any of them.

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of 1919.]

(Chapter VI—Fares, Hiring and Plying for Hire —
Secs 54—57)

54. (1) If any person who has hired a hackney-carriage registered under this Act, and who, without sufficient excuse, refuses to pay to the owner or driver thereof, on demand, the proper fare to which he is entitled, the Magistrate may order payment of such fare, and also of such compensation for loss of time as shall seem reasonable

Procedure on
refusal to pay
fare

(2) If any person who has used any such carriage attempts to evade payment of the fare, or any portion of the same, he shall be liable to a fine not exceeding fifty rupees, or to simple imprisonment for a period not exceeding fourteen days in addition to the payment of such fare and compensation, as hereinbefore mentioned

55. Any person who maliciously or knowingly tears, destroys, defaces, obliterates or removes any plate, table of fares, driver's ticket or mark of identification which has been affixed, put up, granted, attached or applied under the provisions of this Act, shall be liable for every such offence to a fine not exceeding twenty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding ten days.

Penalty for
destroying
carriage plate,
etc

56. Any person using a hackney-carriage registered under this Act who wilfully injures the same, shall be liable to a fine not exceeding twenty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding ten days; and shall also pay to the owner of the carriage such compensation for the injury, as the Magistrate may direct

Penalty for
wilful injury
to carriage

57. (1) In case of any dispute between the hirer and driver of any hackney-carriage registered under this Act,

Disputes how
to be settled

the hirer may require the driver to drive to the Court of the nearest Magistrate or to the Registering Officer;

and, if any driver refuses to obey such requisition, the hirer may give such driver into the custody of the nearest police-officer.

(Chapter VI.—Fares, Hiring and Plying for Hire.—
Secs. 58—60.)

(2) The police-officer shall thereupon take the driver and the hirer, together with the carriage and horse, to such Court or Registering Officer,

and the Magistrate or Registering Officer, as the case may be, may hear and determine the dispute in a summary way.

58. In the case of disputes as to the fare to be calculated according to the distance, any table or book signed by the Registering Officer shall, on proof of such signature, be taken to be conclusive evidence of the distances therein stated.

Table of
distances signed
by Registering
Officer conclusive.

59. (1) Any hackney-carriage registered under this Act may ply for hire as a stage-carriage.

Hackney-
carriage may ply
for hire as stage-
carriage.

(2) The owner or driver of a carriage so plying for hire or hired as a stage-carriage shall not be subject to any by-law made under clause (g) of section 71, but shall be entitled to demand and take for the hire of such carriage such fares as shall be agreed upon between him and the several hirers, respectively, subject to any maximum which may be prescribed by the Local Government by an order in writing.

(3) All the other provisions of this Act shall be applicable to the case of a hackney-carriage plying as a stage-carriage, so far as the same may be applicable in each case.

60. (1) The Corporation of Calcutta shall, in consultation with the Commissioner of Police, from time to time, appoint the places in Calcutta that are to be used as public stands for hackney-carriages.

Stands to be
appointed.

(2) Every public stand so appointed shall have a board placed in a conspicuous place on the same, containing a notice in such language or languages as the Local Government may, by notification, prescribe, stating that the stand is a public stand under this Act and specifying the number of carriages that may stand upon it.

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(Chapter VII.—Palanquins.—Secs. 61—63.)

CHAPTER VII.

PALANQUINS.

61. Every palanquin plying for hire in Calcutta shall be registered annually by the officer appointed for registering hackney-carriages, at the time and in the manner provided by Chapter II with respect to the registration of hackney-carriages:

Palanquins to be registered annually.

Provided that the Registering Officer may refuse to register any palanquin, or may cancel or suspend for such period as he thinks fit, the registration thereof, whenever such palanquin appears to him to be unfit for public use.

62. (1) The Registering Officer shall, at the time of registration, deliver a license, duly signed by him, to the owner of every palanquin.

License for palanquins

(2) Such license shall, if not cancelled or suspended continue in force for one year from the first day of the month in which the palanquin is registered.

63. (1) The following particulars shall be entered in the register and shall be specified in the license to be given to the owner, namely:—

Particulars of register and license.

- (a) the number of the palanquin;
- (b) the name and residence of the owner, and the place where the palanquin is to be kept;
- (c) the number of persons the palanquin is licensed to carry;
- (d) the date on which the license was granted;
- (e) such other particulars as may be prescribed by by-law made under section 71.

(2) All the provisions of this Act in any way relating to the notification to the Registering Officer of the change of ownership or of residence of the owners and drivers of hackney-carriages shall be applicable in like manner to the owners and bearers, respectively, of palanquins.

[Ben. Act I]

(Chapter VII.—Palanquins.—Secs. 64—66.)

Plate to be
affixed outside
palanquins.

64. (1) Upon the registration of any palanquin, the Registering Officer shall cause to be affixed on some conspicuous part of the outside of such palanquin a plate bearing the number of such palanquin in the register and the number of persons it is licensed to carry.

(2) If any palanquin is let, used or plies for hire without having a proper plate affixed thereto under sub-section (1), the owner thereof shall be liable to a fine not exceeding twenty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding ten days.

(3) The person in whose name a palanquin is for the time being registered shall be deemed to be the owner thereof for the purposes of this Act.

Application of
certain provisions
relating to
hackney-carriages
to palanquins.

65. All the provisions of this Act in any way relating to the cancellation or suspension of the registration of hackney-carriages and to the renewing, producing, using or taking possession of plates affixed to hackney-carriages, shall be applicable in like manner to palanquins.

Owner to keep
list of fares inside
palanquin.

66. The owner of every palanquin registered under this Act shall cause to be put up, in such manner and in such position as may be directed by the Registering Officer, on the inside of such palanquin, a list in such language or languages as the Local Government may, by notification, prescribe, showing the amount of fare according to distance and time which may be demanded and taken from the hirer of such palanquin.

License
bearers for
of
palanquins.

67. (1) No person shall act as the bearer of a palanquin registered under this Act unless such person has obtained a license from the Registering Officer in the manner prescribed by Chapter V for drivers of hackney-carriages.

(2) All the provisions of this Act in any way relating to the taking out, granting, renewing, producing or using the licenses, or to the issuing, granting, wearing, using or taking possession of tickets granted to drivers of hackney-carriages, shall be applicable in like manner to the bearers of palanquins.

of 1919.]

(Chapter VII—Palanquins—(Chapter VIII—Rickshaws—Chapter IX—By-laws—Secs 68—71)

(3) For every license to act as a palanquin-bearer granted under this Act, there shall be paid a fee of four annas, and for every renewal thereof there shall be paid a fee of two annas

68. (1) The bearers of every palanquin registered under this Act shall carry such palanquin to any place which is not more than five miles from the place where the same has been hired, to which they shall be required by the hirer thereof to carry the same

Maximum distance to which palanquins are to be carried

(2) When any such palanquin is hired by time, the bearers thereof may be required to carry it at any rate not exceeding two and a half miles within one hour

69. All the provisions of this Act as to offences committed by or against the owners and drivers of hackney-carriages and the penalties in respect of the same and recovery thereof, and all the remedies given to or against hirers, owners or drivers of hackney-carriages, except the provisions contained in section 53 shall be applicable, so far as this same may reasonably be applied, to the owners and bearers of palanquins

Provisions regarding owners and drivers of hackney carriages appl cable to owners and bearers of palanquin

CHAPTER VIII

RICKSHAWS

70. All the provisions contained in this Act relating to palanquins, and the hirers, owners and bearers thereof, shall be applicable, *mutatis mutandis*, and so far as the same may reasonably be applied, to all rickshaws plying for hire in any town or place in which this Act is in force, and to the hirers, owners and bearers of such rickshaws.

Rickshaws

CHAPTER IX

BY-LAWS

71. (1) The Local Government may make by-laws generally for carrying out the provisions and intentions of this Act and in particular, and without

Power to Local Government to make by laws

¹For such by laws, see the Bengal Local Statutory Rules and Orders

(Chapter IX.—By-laws.—Sec. 71.)

prejudice to the generality of the foregoing power, they may make by-laws—

- (a) regulating the examination and qualification of drivers of hackney-carriages and bearers of palanquins and rickshaws, and the conditions under which they may be employed;
- (b) prescribing the uniforms to be worn by drivers and attendants of hackney-carriages;
- (c) specifying the description of horses, harness, or other things to be used in hackney-carriages, palanquins and rickshaws, the dimensions and colours of such carriages, palanquins and rickshaws, and prescribing the conditions in which such carriages, palanquins and rickshaws and the horses, harness and other things used therewith, shall be kept;
- (d) prescribing the mark of identification of horses to be used in any hackney-carriage and the manner in which the mark is to be used;
- (e) providing for the division of hackney-carriages into classes (if any);
- (f) prescribing the fees to be paid for the registration of carriages, horses, palanquins and rickshaws, respectively, under this Act, and for alterations to be made in any register kept thereunder;
- (g) prescribing the fares to be paid for the hire of hackney-carriages, palanquins and rickshaws, respectively;
- (h) regulating the quantity of luggage to be carried by hackney-carriages;
- (i) for the inspection of the premises on which any such carriages, palanquins, rickshaws, horses, harness and other things are kept;
- (j) for the protection of weak, lame or sickly horses and the prevention of their use in hackney-carriages;
- (k) for the regulation of the use of horses in hackney-carriages;

of 1919.]

(Chapter IX—By-laws—Chapter X—Prosecutions—
Secs 72—75.)

- (l) for the publication of a table of distances,
- (m) for regulating or preventing the placing of advertisements on or in hackney-carriages, palanquins or rickshaws, and
- (n) prescribing particulars to be entered in the registers and licenses under this Act

(2) By-laws made under this section shall be published in such manner as the Local Government may direct

72. Whoever infringes any by-law made under this Act shall be liable to a fine not exceeding twenty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding ten days

Penalty for infringement of by laws

CHAPTER X

PROSECUTIONS.

73. A summons against a driver of a hackney-carriage registered under this Act for any offence against this Act may be served either on the person accused, or on the owner of the carriage, or on the owner of the house used therewith, and the service on the owner shall be as effectual as if it had been made on the driver personally

Effect of substituted service of summons

74. If, in any prosecution under this Act, the person charged does not appear as directed by the summons, the Magistrate may, upon proof of service, and if no sufficient cause be shown for the non-appearance, proceed to hear and determine the case in his absence.

Ex parte disposal of criminal charges

75. (1) No person shall be liable to prosecution for any offence under this Act, unless the complaint respecting such offence be made within one month from the commission of such offence.

Liability to fine when incurred

(2) For the purposes of this section every omission punishable under this Act shall be deemed to be a continuing offence so long as the omission continues.

(*Chapter X.—Prosecutions.—Chapter XI.—Miscellaneous.—Secs. 76—78.*)

Damage to property to be paid for.

76. (1) If, through any act, neglect or default on account whereof any person is fined under this Act, any damage to any property has been committed by such person, he shall be liable to make good such damage to the owner of such property as well as to pay such fine.

(2) The amount of such damage shall be determined by the Magistrate by whom such person has been fined; and, in default of payment of the amount of such damage on demand, the same may be levied in the same manner as a fine.

CHAPTER XI.

MISCELLANEOUS.

Property left in carriage, palanquin or rickshaw to be deposited in police-station.

77. (1) If any property is left by any person in a hackney-carriage, palanquin or rickshaw, the driver or bearer thereof, as the case may be, shall, within twenty-four hours, carry such property, if not sooner claimed by the owner thereof, to the nearest police-station, and shall there deposit it with the officer in charge.

(2) The said officer shall forthwith enter in a book to be kept for that purpose—

- (a) the description of such property,
- (b) the name and address of the driver or bearer who brings it;
- (c) the day and hour when it is brought;
- (d) the name and address of the owner of the hackney-carriage, palanquin or rickshaw in which the property has been left and the registered number of such carriage, palanquin or rickshaw;

and shall grant a receipt for the same.

(3) The said officer shall also send a copy of every such entry to the Registering Officer.

Penalty for neglecting to deposit property.

78. Any driver or bearer who fails to deposit any property left in a hackney-carriage, palanquin or rickshaw within the time prescribed in section 77, subsection (1), shall be liable to a fine not exceeding fifty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding fourteen days.

of 1919.]

(Chapter XI—Miscellaneous—Secs 79—81)

79. The property entered under section 77, sub-section (2), shall be returned to the person who proves to the satisfaction of the Commissioner of Police or such other police-officer, not below the rank of Inspector as he may appoint in this behalf, that the same belonged to him, on payment of all costs incurred, together with such reasonable sum to the person who brought the same as the Commissioner or such other officer may determine

Property to be returned to owner

Provided that, if within six months from the date of such deposit no person satisfies the Commissioner or such other officer that he is the owner of the property, the Commissioner may cause the property to be sold, or otherwise disposed of, and the proceeds, after deducting therefrom the expenses together with a reasonable sum to the driver or bearer shall be credited and applied in the same manner as fees and fines realized under this Act

80. (1) Every owner of a hackney-carriage or palanquin or the driver or bearer thereof, not providing for disinfection of the carriage or palanquin, at a place appointed by the Registering Officer, immediately after it has, with his knowledge, conveyed any person suffering from any dangerous infectious disorder, or after it has been used for conveying a corpse, and which fact had been previously notified by the lurer to the owner, driver or bearer shall, for every such offence, be liable to a fine not exceeding fifty rupees, and, in default of payment of fine, to simple imprisonment for a period not exceeding fourteen days

Disinfection of hackney carriage or palanquin after conveying a patient or corpse

Provided that no such owner, driver or bearer shall be required to convey any person so suffering or any corpse until he has been first paid a sum sufficient to defray the loss and expenses incurred thereby, such sum not to exceed ten rupees in the case of a hackney-carriage and five rupees in the case of a palanquin

81. If a police-officer has cause to arrest a driver of a hackney-carriage or a bearer of a palanquin for any offence under this Act or any other bailable offence, or to seize a hackney-carriage or palanquin or a horse employed in drawing such carriage for a

Provision for passenger in case of seizure of hackney-carriage or palanquin

(Chapter XI.—Miscellaneous.—Secs. 82—84.)

breach of any of the provisions of this Act or of any by-law made thereunder, when such carriage or palanquin is being used for the conveyance of a passenger, such police-officer shall, if so required by the passenger, permit the carriage or palanquin to proceed to the place to which the passenger desires to proceed, and shall thereafter complete the arrest.

Fees and fines
how to be dealt
with.

82. (1) All fees and fines realized under this Act shall be credited to Government, and all charges incurred on the administration of this Act shall be met from such fees and fines. At the end of each year the balance of fees and fines realized during the year, after all such charges have been met, shall be paid to the Calcutta Municipal Fund.

(2) In the event of one or more municipalities being included in Calcutta by virtue of a notification published under clause (b) of section 2, such balance shall be divided annually between the Corporation of Calcutta and such other municipality or municipalities in such proportion as the Local Government may from time to time determine.

Indemnity.

83. No suit shall be maintainable against the Commissioner of Police or any municipal authority, officer or servant or any police-officer or any person acting under the direction of the Commissioner of Police or of any municipal authority, officer or servant or of a Magistrate, or of any person appointed under section 84, sub-section (1), of this Act, in respect of anything lawfully and in good faith and with due care and attention done under this Act or any by-law made thereunder.

Effect when Act
extended outside
Calcutta.

84. (1) Whenever this Act is extended to any other town or local area outside Calcutta under clause (a) of section 2, the Local Government may, by notification, appoint persons, or local authorities, to exercise and perform in such town or area the same powers and duties as are conferred or imposed by this Act on the Corporation of Calcutta and the Commissioner of Police, respectively.

(2) In each town or local area to which this Act may be extended, for the word "Calcutta" in sections 5, 32, 60, 61 and 82, sub-section (2), shall be read the name of such town or area, and for the words

of 1919.]

(Chapter XI.—Miscellaneous —Sec. 85.)

“Calcutta Municipal Fund” in section 82, sub-section (1), shall be read the fund of the local authority for such town or area.

85. (1) Notwithstanding anything contained in this Act, a hackney-carriage registered under this Act in any town or local area outside Calcutta may ply for hire in any place outside Calcutta within a radius of six miles from such town or local area.

Hackney carriages outside Calcutta to ply within certain radius

(2) All the provisions of this Act shall be applicable to the case of a hackney-carriage plying within such radius, so far as the same may be applicable in each case.



BENGAL ACT No. II OF 1919.

(THE BENGAL JUVENILE SMOKING ACT, 1919.)¹

15th January, 1919]

An Act for the Prevention of Smoking by Juveniles

WHEREAS it is expedient to make provision for the prevention of smoking by young persons, Preamble

It is hereby enacted as follows —

1. (1) This Act may be called the Bengal Juvenile Smoking Act, 1919 Short title local extent and commencement

II (2) It extends in the first instance to Calcutta, as defined in clause (7) of section 3 of the Calcutta Municipal Act, 1899²

Provided that the Local Government may, from time to time, by notification in the *Calcutta Gazette*, extend this Act to any other town or place in Bengal

(3) It shall come into force on such date³ as the Local Government may, by notification in the *Calcutta Gazette*, direct

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions

(a) "cigarettes" include cut tobacco rolled up in paper, tobacco leaf, or other material in such form as to be capable of immediate use for smoking,

(b) "police-officer" means a member of an established police force above the rank of a head constable, and

(c) "tobacco" means tobacco in any form, and includes any smoking mixture intended as a substitute for tobacco

3. (1) No person shall sell or give to a person apparently under the age of sixteen years any tobacco, pipes or cigarette papers, whether for his own use or not Prohibition against sale of tobacco etc., to young persons

Provided that a person shall not be guilty of an offence under this sub-section for selling tobacco,

¹ For Statement of Objects and Reasons see

[Ben. Act II of 1919.]

(Secs. 4—5.)

other than cigarettes, to a person apparently under the age of sixteen years if he did not know, and had no reason to believe, that it was for the use of that person.

(2) If any person contravenes the provisions of sub-section (1), he shall be liable on summary conviction before a Magistrate to a fine not exceeding ten rupees, and in the case of a second offence to a fine not exceeding twenty rupees, and in the case of a subsequent offence to a fine not exceeding fifty rupees.

Power of police-officers and others to seize and destroy tobacco, etc., in the possession of a young person in certain places.

4. It shall be lawful for a police-officer in uniform, or any other person or class of persons duly authorised by the Local Government in this behalf, to seize any tobacco, pipes or cigarette papers in the possession of any person apparently under the age of sixteen years whom he finds smoking in any street or public place, and to destroy any such article.

Institution of proceedings.

5. No Magistrate shall take cognizance of an offence under this Act, except upon a complaint made by, or at the instance of, the parent or guardian of the young person concerned or a police-officer or other person empowered to make a seizure under section 4.

Act not to apply in certain cases.

6. The provisions of this Act shall not apply when the person to whom the tobacco, pipes or cigarette papers are sold, or in whose possession they are found, was at the time employed by a manufacturer of, or dealer in, such articles, either wholesale or retail, for the purposes of his business.

BENGAL ACT No. III OF 1919.

[THE BENGAL TENANCY (AMENDMENT)
ACT, 1919].¹

[19th February, 1919]

*An Act further to amend the Bengal Tenancy
Act, 1885*

WHEREAS it is expedient further to amend the Bengal Tenancy Act, 1885² in the manner hereinafter appearing,

And where as the previous sanction of the Governor General has been obtained under section 79³ sub-section (2) of the Government of India Act, 1915, to the passing of this Act,

It is hereby enacted as follows —

1. This Act may be called the Bengal Tenancy (Amendment) Act, 1919

Short title

2. Section 74 of the Bengal Tenancy Act, 1885 (hereinafter called the said Act), shall be renumbered as sub section (1) of section 74, and after the said sub-section the following shall be added, namely —

Amendment
of section 74
of Act VIII of
1885

“(2) All impositions upon tenants of road cess or public works cess, or of both,—

(a) in excess of the net amount prescribed by clause (2) of section 41 of the Cess Act, 1880,⁴ or

(b) on any scale in excess of that prescribed by clause (3) of that section,

levied in addition to the actual rent shall be illegal, and all stipulations and reservations for payment of any such excess contained in any contract made between a landlord and a tenant on or after the 13th day of October, 1930, shall be void

¹ For Statement of Objects and Reasons, see *Cuttack Gazette* 1918 Pt IV, p 127 and for Proceedings in Council see *ibid* Pt IV A pp 808-809, and 1165 1166, and p 1277 and see *Cuttack Gazette*, 1919, Pt I VA, pp 28 30

² Bengal Code Vol I

³ Section 79 of the Government of India Act 1915, was repealed by Part II of ch II of the Government of India Act, 1919 (9 & 10 Geo 5, c. 101)

⁴ Bengal Code, Vol II

[Ben. Act III of 1919.]

(Sec. 3.)

Provided that nothing in this sub-section shall affect the terms of a written contract registered before the commencement of the Bengal Tenancy (Amendment) Act, 1919 :

Provided also that, subject to the provisions of section 72 of the Indian Contract Act, 1872,¹ no suit shall lie for the recovery of anything paid before the commencement of the Bengal Tenancy (Amendment, Act, 1919, on account of the impositions referred to in sub-section (2).

(3) Nothing in this section shall be deemed to affect the terms of a permanent *mukarrari* lease granted by a proprietor or holder of a permanent tenure in a permanently-settled area."

Amendment of
section 75.

3. In section 75 of the said Act,—

(1) after the words "in excess of the rent" the words "or road cess or public works cess" shall be inserted; and

(2) after the words "lawfully payable, may" the following shall be inserted, namely:—

"subject to the second proviso to sub-section (2) of section 74."

¹ General Acts, Vol. II.

BENGAL ACT No. IV OF 1919.
THE BENGAL PRIMARY EDUCATION ACT,
1919.

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BENGAL ACT No. IV OF 1919.

(THE BENGAL PRIMARY EDUCATION ACT, 1919.)¹

[14th May, 1919]

An Act to provide for the extension of primary education in Municipalities and in certain other areas in Bengal.

WHEREAS it is expedient to provide for the extension of primary education in Municipalities and in certain other areas in Bengal,

It is hereby enacted as follow —

PART I.

PRELIMINARY

1. (1) This Act may be called the Bengal Primary Education Act, 1919.

Short title and extent

(2) It extends in the first instance to all Municipalities in Bengal

Provided that the Local Government may, by a notification² published in the *Calcutta Gazette*, extend the provisions of this Act, with such modifications, for the purposes of adaptation, as they may deem fit, to any area in a Union constituted under section 38 of the Bengal Local Self-Government Act of 1885,³ [or under section 5 of the Bengal Village Self-Government Act, 1919] and may authorize the Union Committee⁴ [or the Union Board] for such area to exercise and perform all or any of the powers and duties conferred and imposed on the Commissioners by this Act, subject to such control by the District or Local Board as the Local Government may prescribe

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "to attend a recognized primary school" means to be present for instruction at such school for so many and on such days in the year and at such time or times on each day as may be prescribed by the School Committee for such school, subject to the rules and orders of the Education Department of the Local Government,

*(Part II.—Voluntary Primary Education.—
Sec. 3.)*

(2) "Commissioners" means the persons for the time being appointed or elected to conduct the affairs of a Municipality ;

(3) "guardian" includes a parent or any person who is liable to support, or has the custody of, a boy not being less than six or more than ten years of age ;

(4) "Municipality" means Calcutta, as defined in clause (7) of section 3 of the Calcutta Municipal Act, 1899¹, or any place in which the Bengal Municipal Act, 1884, is in force ;

(5) "primary education" means such elementary education as may be prescribed from time to time for primary schools by the Education Department of the Local Government ;

(6) "recognized primary school" means a school (or a department of a school) appropriated to primary education and for the time being recognized by the Education Department of the Local Government for the purposes of such education ; and

(7) "School Committee" means a committee constituted under section 7.

PART II.

VOLUNTARY PRIMARY EDUCATION.

Statement to
be submitted by
Municipalities.

3. Within one year from the commencement of this Act or within such other period as may be prescribed by the Local Government in this behalf, the Commissioners shall submit to the Local Government a detailed statement, in such form as may be prescribed by the Local Government, containing the following particulars in respect of the Municipality :—

(a) (i) the number of children, not being less than six or more than eleven years of age, within the Municipality ;

(ii) the number of boys, not being less than six or more than ten years of age, therein ;

(b) the school accommodation for the staff of, and the attendance at, existing primary schools ;

¹Bengal Act III of 1899 has been repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben. Act III of 1923) *post*, p. 425.

of 1919.]

(Part II.—*Voluntary Primary Education.*—
Sec. 4.)

(c) the school accommodation, staff and equipment required if suitable and adequate provision were to be made for the primary education of—

(i) all children referred to in clause (a) (i) likely to attend primary schools voluntarily; and

(ii) all boys referred to in clause (a) (ii);

(d) the manner in which and the periods within which it will be possible to provide the necessary school accommodation, staff and equipment referred to in clause (c) under the direct management and control of the Municipality;

(e) the existing expenditure incurred by the Municipality on primary education and the expenditure to be incurred yearly in order to provide such school accommodation, staff and equipment;

(f) the receipts already available, and the income including the probable receipts from any education cess that may in future be levied under section 17, which it may be estimated will be available to meet such expenditure; and

(g) the amount of grant or assistance from the Government which the Commissioners consider would be necessary to enable them to provide for primary education within the Municipality, or any part thereof.

4. The Local Government, after considering the statement required by section 3 and the conditions and resources of the Municipality, and after determining the amount of financial assistance from the Government which may be necessary in order to provide for primary education within the Municipality, may, if satisfied that the Municipality is able to meet the expenditure involved, direct the Commissioners to provide the necessary school accommodation, staff and equipment for all children, not being less than six or more than eleven years of age, likely to attend primary schools voluntarily within the Municipality and to assume the direct management and control of all such schools.

Commissioners
to make provi-
sion for primary
education.

(Part III.—Compulsory Primary Education—
Secs. 5, 6.)

PART III.

COMPULSORY PRIMARY EDUCATION.

Operation of
Part III.

5. The provisions of this Part shall not come into operation until a notification has been issued under section 6, sub-section (2).

Primary education when to be declared compulsory.

6. (1) If, after complying with the directions of the Local Government under section 4, the Commissioners are of opinion that the primary education of all boys, not being less than six or more than ten years of age, should be made compulsory within the Municipality or any part thereof, they may apply to the Local Government, in such manner as may be prescribed by rules made by the Local Government, for permission to introduce therein compulsory primary education for such boys.

(2) The Local Government, after considering the application and after determining the financial assistance from the Government which may be necessary to provide for compulsory primary education within the Municipality, shall, if satisfied that the Municipality is able to meet the expenditure involved, grant the permission asked for, and the Commissioners shall thereupon cause a notification to be issued declaring that primary education shall be compulsory for all such boys within the Municipality, or any part thereof, as the case may be.

(3) Every notification issued under this section shall be published in the *Calcutta Gazette* and in the local newspapers, if any, and shall be posted up at the Municipal office and at such other places, as the Commissioners shall deem necessary, specifying the date on and from which primary education shall be compulsory within the Municipality, or any part thereof.

(4) No notification shall be issued by the Commissioners under this section except in pursuance of a resolution passed at a special general meeting convened for the purpose and at which not less than two-thirds of the total number of Commissioners are present.

of 1919.]

*(Part III — Compulsory Primary Education —
Secs. 7—9)*

7. When a notification has been issued in any Municipality under section 6, sub-section (2), the Commissioners shall appoint a School Committee, to be constituted in such manner as may be prescribed by rules made under section 15

Constitution of
School Com-
mittee

Provided that a Deputy Inspector or a Sub-Inspector of Schools at least one Commissioner and one or more residents of the Municipality, other than a Commissioner shall be members of the Committee

8. (1) In every area to which the provisions of this Part apply, it shall be the duty of the guardian of every boy not being less than six or more than ten years of age, residing within that area to cause such boy to attend a recognized primary school unless, in the opinion of the School Committee, there is a reasonable excuse for his non-attendance

Duty of guar-
dian to send boy
to school

(2) Any of the following circumstances shall be deemed to be a reasonable excuse within the meaning of this section —

(a) that there is no recognized primary school within a distance of one mile, measured by the shortest route, from the residence of the boy which he can attend, and to which the guardian has no reasonable objection to send the boy,

(b) that the boy is prevented from attending the school by reason of sickness, infirmity, domestic necessity, the seasonal needs of agriculture or of his being the sole bread-winner of his family,

(c) that the boy is receiving education in some other satisfactory manner

9. (1) If the School Committee is satisfied that a guardian who is required under section 8 to cause a boy to attend a recognized primary school, has failed to do so, it shall, after giving a warning in writing to such guardian, apply to a Magistrate for an order to compel the guardian to enforce the attendance of such boy, and the Magistrate shall fix a day for the hearing of the application and cause notice thereof to be given to such guardian

Order
Magistrate
compel
attendance
of
to
atten

(2) On the day fixed for the hearing of the application or on any subsequent day to which it may be

(Part III.—Compulsory Primary Education.—
Secs. 10—13.)

adjourned, and after hearing the guardian or his authorized agent, if present, the Magistrate, if satisfied that the facts alleged in the application are true, may pass an order directing the guardian to cause such boy to attend a recognized primary school from a date to be specified in such order.

Penalty for
failure to obey
order.

10. (1) Any guardian who fails to comply with an order passed under section 9 shall, on conviction before a Magistrate, be liable to a fine not exceeding five rupees, and also to a recurring fine not exceeding one rupee for each day after the first during which he continues so to offend:

(2) No Magistrate shall take cognizance of an offence under this section except on the complaint of the School Committee.

Prohibition of
employment of
boys.

11. No person shall, without the permission of the School Committee, employ any boy, not being less than six or more than ten years of age, who is required to attend a recognized primary school under this Part:

Provided that such permission shall not be necessary if the employment of the boy does not interfere with his attendance at such school.

12. (1) The School Committee may prosecute any person who, after due warning, contravenes the provisions of section 11.

(2) Unless such person satisfies the Magistrate that there is a reasonable excuse, within the meaning of section 8, sub-section (2), for the non-attendance of the boy, or that the time and nature of employment of the boy are such that he is not prevented from attending a recognized primary school, or that the boy was taken into employment under false representations as to age, residence and other conditions, such person shall, on conviction before a Magistrate, be liable to a fine not exceeding twenty rupees.

13. An application to a Magistrate under section 9 or a complaint to a Magistrate under section 10 or section 12, may be made on behalf of the School Committee by such person as may be authorized by the School Committee by general or special order in this behalf.

Delegation of
some of the func-
tions of the School
Committee.

of 1919.]

(Part III—Compulsory Primary Education—

Part IV—Education cess—secs 14—17)

14. When primary education has been made compulsory in any Municipality or any part thereof, if a guardian who is required under the provisions of this Part to cause a boy to attend a recognized primary school satisfies the School Committee that he is unable to pay the fees or any part of the fees ordinarily charged in such school such boy shall be admitted to such school free of charge, or at such reduced fees as the School Committee may determine for the period during which the guardian is required to cause the boy to attend a recognized primary school

Reimbursement of fees

15. The Commissioners may, with the previous sanction of the Local Government make rules prescribing—

Power of Commission to make rules

(a) the manner in which the School Committee shall be constituted, the number of its members its duties and its mode of transacting business

(b) the steps which the School Committee may take to secure the attendance of boys at school

16. The Local Government may, by notification in the *Calcutta Gazette*, exempt any class of persons or any community, in any area to which this Act extends from the operation of this Part

Exemption from compulsory education

PART IV.

EDUCATION CESS

17. (1) If the existing resources of any Municipality including any grant from the Government, are not sufficient to cover the cost of primary education within the Municipality the Commissioners may, with the previous sanction of the Local Government, impose a tax, to be called the "education cess", and all amounts derived therefrom shall be devoted solely to the purposes of primary education, whether voluntary or compulsory, within the Municipality

Education cess

(2) An education cess shall not be imposed unless the Commissioners by resolution, passed at a special

(Part V.—Supplemental.—Secs. 18—20.)

general meeting convened for the purpose and in favour of which two-thirds of the Commissioners have voted, determine to impose such cess.

(3) The education cess shall be levied in such manner as may be prescribed by rules made by the Local Government, and the cess so levied shall be a rate amounting to the sum required, after deducting the Government grant, the school receipts and the receipts from endowments and contributions, to meet the expenditure on primary education, together with ten *per cent.* above such sum to meet the collection charges and the probable losses due to non-realization from defaulters.

PART V.

SUPPLEMENTAL.

Power of Local
Government to
make rules.

18. (1) The Local Government may, after previous publication, make rules¹ to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Local Government may make rules prescribing the manner in which—

(a) applications under section 6, sub-section (1), shall be made; and

(b) the education cess shall be levied.

(3) All rules made under this section shall be published in the *Calcutta Gazette*.

Schools to be
open to inspection

19. All primary schools maintained by the Commissioners within a Municipality, or any part thereof, under the provisions of this Act shall be open to inspection free of any charge by the inspecting officers of the Education Department of the Local Government and such other persons as the Local Government may appoint in this behalf.

Certain persons
to be deemed
public servants.

20. Every person authorised by the School Committee under section 13 and every officer and servant of the School Committee, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.²

Act
of 188

¹ For such rules, see the Bengal Local Statutory Rules and Orders.

² General Acts, Vol. I.

of 1919]

(Part V—Supplemental—Sec 21)

21. When, in the opinion of the Local Government, the Commissioners have made default in any of the requirements of Part III of this Act, the Local Government may, after considering any explanation of the Commissioners, by a notification in the *Calcutta Gazette*, stating the grounds of such order, cancel any notification which has been issued under section 6, sub-section (1)

Withdrawal of
notification on
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BENGAL ACT No. V OF 1919.
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BENGAL ACT No. V OF 1919.

(THE BENGAL VILLAGE SELF-GOVERNMENT ACT, 1919.)¹

An Act to develop self-government in the rural areas of Bengal

[28th May, 1919.]

WHEREAS it is expedient to develop the system of self-government in the rural areas of Bengal

And whereas the sanction of the Governor General has been obtained under section 79,² sub-section (2) and sub-section (3), of the Government of India Act 1915, to the passing of this Act;

It is hereby enacted as follows.—

PART I.

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Bengal Village Self-Government Act, 1919

Short title local
extent and com-
mencement

(2) It extends to the whole of Bengal, except the town of Calcutta and any area which has been or may hereafter be constituted a municipality under the provisions of the Bengal Municipal Act, 1884

(3) It shall come into force in such districts or such parts of districts and on such dates as the Local Government may, by notification,³ direct, and the Local Government may, by notification, withdraw this Act from any district or part of a district

Explanation—The words “the town of Calcutta” mean, subject to the exclusion or inclusion of any local area by notification under section 637 of the Calcutta Municipal Act 1899⁴, and subject to the provisions of

¹For Statement of Objects and Reasons see *Calcutta Gazette*, 1918 Pt. IV, pp. 117 and 118 and for Proceedings in Council see *ibid* Pt. IV A, pp. 66-672 and 1188-1193 and see *Calcutta Gazette*, 1919 Pt. IV A, pp. 70-71, 127-128, 135, 136 and 688-912

²See foot note 8 on page 103 ante

³For all notifications, see the Bengal Local Statutory Rules and Orders

⁴Bengal Act III of 1899 has been repealed and re-enacted by the Bengal Municipal Act, 1923 (Ben Act III of 1923), *post*, p. 423

[Ben. Act V

(Part I.—Chapter I.—Preliminary.—Secs. 2, 3.)

section 147 of the Calcutta Improvement Act, 1911, the area described in schedule I to the Calcutta Municipal Act, 1899:¹

Ben. Act V
of 1911.
Ben. Act III
of 1899.

Provided that this Act shall not come into force in any cantonment without the sanction of the Governor General in Council previously obtained.

Repeal and
amendment of
certain enact-
ments; saving of
certain provisions.

2. (1) When any local area is declared to be a union under section 5, the enactments specified in schedule I shall, from the date of election or appointment of the first president of the union board of that union, be repealed or amended to the extent and in the manner mentioned in the fourth column thereof:

Provided that until a new assessment is made under this Act, any assessment, rate or tax which was in force in such area under the provisions of the Bengal Local Self-Government Act of 1885, in so far as they relate to union committees, and of the Village-chaukidari Act, 1870, shall continue to be in force and all sums due on account of such rate or tax shall be realized under the provisions of this Act, and shall be credited to the union fund, and may be expended by the union board by which they are realized.

Ben Act III
of 1885.
Ben. Act VI
of 1870.

(2) When, in consequence of the repeal of the enactments referred to in sub-section (1), any panchayat or union committee ceases to exist, all the properties, funds and dues which are vested in such panchayat or union committee shall be vested in such union board or boards, and in accordance with such allocation, as may be determined by the district magistrate, whose orders thereon shall be final.

Effect on cer-
tain enactments
when Act is
withdrawn.

3. When the provisions of this Act are withdrawn from any district or part of a district under section 1, sub-section (3), the enactments specified in schedule I shall be deemed to be revived in such district or part to the extent to which they were modified by that schedule, from the date of the publication of the notification of withdrawal:

Provided that all assessments for the imposition of rates under section 37 shall continue to be in force

¹See foot-note 4 on p. 123, ante.

of 1919]

(Part I—Chapter I—Preliminary—Sec 4)

until a new assessment is made in accordance with the provisions of the Village-chaukidari Act, 1870, and all properties funds and other dues vested in any union board within such district or part of a district shall be vested in such local authorities, panchayats or persons and in such manner as may be determined by the district magistrate, whose orders thereon shall be final

4. In this Act, unless there is anything repugnant in the subject or context,—

Definitions

- (1) ' building ' includes a hut and shed ,
- (2) " circle officer " means any person who may be appointed by the Local Government to exercise the powers and perform the duties of a circle officer under this Act ,
- (3) ' dafadar " means a herd chaukidar ,
- (4) ' district board " means a district board established under the Bengal Local Self-Government Act of 1885 ,
- (5) " district magistrate " includes an additional district magistrate ,
- (6) " local board " means a local board established under the Bengal Local Self-Government Act of 1885, as amended by this Act ,
- (7) " notification " means a notification published in the *Calcutta Gazette* ,
- (8) " road " means any road, street or passage, whether a thoroughfare or not, over which the public have a right of way ,
- (9) " subdivisional magistrate " means any magistrate in charge of a subdivision of a district ,
- (10) " year " means a year beginning on the first day of April, or on such other date as may hereafter be fixed for any union board by the Local Government by notification , and
- (11) the expressions ' non-bulable offence,' " cognizable offence," " complaint," " offence," " officer in charge of a police-station " and " police-station " have the same meaning as in section 1 of the Code of Criminal

[Ben. Act V

*(Part I.—Chapter II.—Union boards.—Secs. 5, 6.)*Act V of
1898.

Procedure, 1898,¹ and the expressions “decree,” “legal representative” and “moveable property,” have the same meaning as in section 2 of the Code of Civil Procedure, 1908.²

Act V of
1908.

CHAPTER II.

UNION BOARDS.

5. When this Act has come into force in any district or part of a district, the Local Government may, after consideration of the views of the district board and the local boards, by notification, divide that district or part into as many local areas as may to them seem expedient, and may, by notification, declare every such local area to be a union for the purposes of this Act.

Power of Local Government to declare local areas to be union.

6. (1) The Local Government shall, by notification, establish a union board for every union constituted under section 5, and shall fix the number of members of each union board :

Establishment and constitution of union board.

Provided that the number of members of a union board shall not be less than six or more than nine.

(2) The members shall be elected within such time and in such manner as may be prescribed by rules under section 101.

(3) Notwithstanding anything contained in subsection (2), the Local Government may direct, by an order in writing, for reasons to be stated in such order that not more than one-third of the total number of members of the union board shall be appointed by the district magistrate :

Provided that no member shall be so appointed unless he is entitled to be elected as a member of the union board under section 7.

(4) If on the date fixed for the election, the electors of any union fail to elect any member or members the vacancy or vacancies shall be filled by another

¹ General Acts, Vol. V.
² General Acts, Vol. VI.

of 1919.]

(Part I.—Chapter II.—Union boards.—Secs. 7, 8.)

election or by appointment by the district magistrate ; and any person so appointed shall be deemed to be a duly elected member.

7. (1) Every male person of the full age of twenty-one years and having a place of residence within the union,—

Qualification of
voters and mem-
bers of union
board

- (i) who, during the year immediately preceding the election, has paid a sum of not less than one rupee as cess under the Cess Act, 1880¹, in respect of lands situated wholly or in part in such union, or
- (ii) who, during the year immediately preceding such election, has been assessed at and paid a sum of not less than one rupee for the purposes of the union rate payable under this Act, or in the case of a first election under this Act, as chaukidari-tax, or
- (iii) who is a member of a joint undivided family, which, during the year immediately preceding the election, has paid a sum of not less than one rupee as such cess, rate or tax,

shall be entitled to vote at an election of members of the union board :

Provided that only one member of a joint undivided family qualified under clause (iii) and nominated by the other qualified members of that family shall be entitled to vote on its behalf at any such election.

(2) Every person who is entitled to vote at an election of members of the union board and is resident within the union, shall be entitled to be a member of the union board if duly elected thereto.

Explanation—A person shall be deemed to be “resident” within a union within the meaning of sub-section (2) if he ordinarily resides within its limits. No person may be so resident within the limits of more than one union at the same time

8. (1) Every union board shall be presided over by a president, who shall be elected by the members of the union board from among their own number.

President of
union board.

(Part I.—Chapter II.—Union boards.—Secs. 9-12.)

(2) If any union board fails to elect a president within the period prescribed by rules under section 101, the district board shall appoint a member of the board to be the president.

Vice-president
of union board.

9. Every union board may elect one of its members to be the vice-president of the board.

Disqualification
of certain persons
from voting at
election of, or
being members
of, union boards.

10. Notwithstanding anything contained in this Act, no person who is not a British subject or a subject of any State in India shall be qualified to vote at an election of, or to be a candidate for election as a member of, a union board, nor shall such person be nominated to be a member of such board:

Provided that the Local Government may, by notification, exempt from the provisions of this section any person or class of persons who are not British subjects or subjects of any State in India.

Term of office
of members.

11. The term of office of a member of a union board shall be three years from the date on which the district magistrate shall declare the board to be duly constituted, but shall include any period which may elapse between the expiration of the said three years and the date of the first meeting at which a quorum is present, of the newly elected and appointed members after the next general election for the union board.

Power to remove
members.

12. (1) The district board may remove any member of a union board from his office—

- (a) who is convicted of any non-bailable offence; or
- (b) who refuses to act, or becomes incapable of acting, or is declared to be insolvent; or
- (c) who has been declared by notification to be disqualified for employment in the public service; or
- (d) who, without an excuse sufficient in the opinion of the district board, absents himself from six consecutive meetings of the union board; or
- (e) who has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, if two-thirds of the total number of the members of the union board at a meeting recommend his removal.

of 1919]

(Part I—Chapter II—Union boards—Secs 13-16)

(2) No person who has been removed from his office under clause (a) or clause (c) of sub-section (1) shall be eligible for re election or re appointment

13. When the place of an elected or appointed member of a union board becomes vacant by his removal, resignation or death, a new member shall be elected or appointed in the manner prescribed by rules under section 101, and shall hold office so long as the member whose place he fills would have been entitled to hold office if such vacancy had not occurred

Filling of casual vacancies

Provided that no act of the union board, or of its officers, shall be deemed to be invalid by reason only that the number of members of the board at the time of the performance of such act was less than the prescribed number

14. The term of office of a president or vice-president of a union board shall be the residue of his term of office as a member of the union board

Term of office of president or vice-president

15. (1) A president of a union board may resign during his term of office by notifying in writing his intention to do so to the chairman of the district board and to the union board, and on such resignation being accepted by the chairman, shall be deemed to have vacated his office

Resignation of president, vice president or member

(2) A vice-president or a member of a union board may resign during his term of office by notifying in writing his intention to do so to the union board, and on such resignation being accepted by the union board, shall be deemed to have vacated his office

16. (1) The district board may remove a president of a union board from his office—

Removal of president or vice president

- (i) if he is convicted of any non-bailable offence or
- (ii) if he refuses to act, or becomes incapable of acting, or is declared insolvent, or
- (iii) if he is guilty of misconduct or persistent negligence in the discharge of his duties as president of the union board or of any disgraceful conduct, and two-thirds of the

(Part I.—Chapter III.—*Dafadars and chaukidars.*—
Sec. 23.)

Powers and
duties of dafadars
and chaukidars.

23. (1) Every chaukidar shall exercise the following powers and perform the following duties:—

(i) he shall give immediate information to the officer in charge of the police-station within the limits of which the union is situated and to the president of the union board, of every unnatural, suspicious or sudden death which may occur, and of any offence specified in schedule II which may be committed within the union, and he shall keep the police and the president of the union board informed of all disputes which are likely to lead to a riot or serious affray;

(ii) he may, without an order from a magistrate and without a warrant, arrest—

(a) any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists of his having been so concerned:

(b) any person having in his possession, without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;

(c) any person who has been proclaimed as an offender either under the Code of Criminal Procedure, 1898,¹ or by order of the Local Government;

Act
1898.

(d) any person in whose possession anything is found which may reasonably be suspected to be stolen property, or who may reasonably be suspected of having committed an offence with reference to such thing;

(e) any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

(f) any person reasonably suspected of being a deserter from His Majesty's Army or Navy or of belonging to His Majesty's Indian Marine Service and being illegally absent from that service; and

of 1919.]

(Part I—Chapter III—*Dafadars and chaukidars*—
Sec 23)

(g) any released convict committing a breach of any rule made under section 365, sub-section (3), of the Code of Criminal Procedure, 1898,

(iii) he shall, to the best of his ability, prevent, and he may interpose for the purpose of preventing, the commission of any offence specified in schedule II,

(iv) he shall assist private persons in making such arrests as they may lawfully make, and he shall report such arrests without delay to the officer in charge of the aforesaid police-station,

(i) he shall observe, and, from time to time, report to the said officer the movements of all bad characters within the union,

(vi) he shall report to the said officer the arrival of suspicious characters in the neighbourhood,

(vii) he shall report in such manner as may be prescribed by the district Magistrate the births and deaths which have occurred within the union,

(viii) he shall supply any local information which the district magistrate or any police-officer may require,

(ix) he shall obey the orders of the union board in regard to keeping watch within the union and in regard to other matters connected with his duties as chaukidar;

(x) he shall give immediate information to the union board of any offence under sub-section (4) of section 30 and of any encroachment on, or obstruction to, any road or water-way within the union and of any damage to any property under the control of the union board,

(xi) he shall assist the person collecting the union rate in making such collection;

(xii) he shall serve such processes upon persons resident within the union as may be prescribed by rules under section 101; and

(xiii) he shall carry out such other duties as may be entrusted to him from time to time in accordance with this Act or any rules made hereunder

(2) Every dafadar shall exercise all the powers conferred on a chaukidar under sub-section (1) and shall perform such duties as may be imposed upon him by rules made under section 101

[Ben. Act V

(Part I.—Chapter III.—Dafadars and chaukidars.—
Chapter IV.—Powers and duties of union
boards—Secs. 24-26.)

Procedure on
arrest by dafadar
or chaukidar.

24. Whenever a dafadar or chaukidar arrests any person under section 23, he shall forthwith take the person so arrested to the police-station within the limits of which the union is situated:

Provided that, if the arrest is made at night, such person shall be so taken, as soon as convenient, on the following morning.

Fines to be
credited to district
chaukidari reward
fund.

25. All fines realized from a dafadar or chaukidar under section 22 of this Act shall be credited to a district chaukidari reward fund, the control over which shall rest with the district magistrate.

CHAPTER IV.

POWERS AND DUTIES OF UNION BOARDS.

Duties of union
boards.

26. Every union board—

- (1) (a) shall take such action as is necessary to secure the due performance by the dafadars and chaukidars of the union of the duties imposed on them under this Act, and shall exercise a general control over them;
- (b) shall provide, as far as possible, for the sanitation and conservancy of the union and for the prevention of public nuisances therein;
- (c) shall make special arrangements for the sanitation and conservancy of fairs and melas held within the union;
- (d) shall have control of all drains and other conservancy works within the union which are not under the control of any other authority;
- (e) shall execute all works that are necessary for the preservation of public health and for improving the sanitation, conservancy or drainage of the union;
- (f) shall supply any local information which the district magistrate or the district board or local board may require; and
- (g) shall perform all such other acts as may be necessary to carry out the purposes of this Act;

of 1919.]

(Part I.—Chapter IV—Powers and duties of union boards—Sec 27)

(2) shall perform such functions as may be transferred to it by notification under section 31 of the Cattle-trespass Act, 1871¹,

(3) if required to do so by the district magistrate, shall provide for the registration of births and deaths within the union under the provisions of the Bengal Births and Deaths Registration Act, 1873²,

(4) shall cause such processes as may be received by the union board for service to be duly served by a dafadar or chaukidar in accordance with rules under section 101, and

(5) may undertake and carry out any other local work of public utility likely to promote the health, comfort or convenience of the public, and not otherwise provided for in this Act

27. (1) If it appears necessary to improve the sanitary condition of the union or any part thereof—

Powers of union board as to sanitation, conservancy and drainage

a) the union board may, or, under the orders of the district board, shall—

(i) cause huts or privies to be removed either wholly or in part;

(ii) cause private drains to be constructed, altered or removed,

(iii) cause public drains to be constructed, altered or removed,

(iv) cause—

any well, pool, ditch, tank, pit or pond, or any place containing or used for the collection of any drainage, filth or stagnant water,

which appears to be injurious to health or offensive to the neighbourhood or in any other respects a nuisance, to be filled up, cleansed or deepened or the water to be drained off or removed therefrom, or such other action to be taken therewith as may be deemed necessary;

(Part I.—Chapter IV.—Powers and duties of union boards.—Sec. 27.)

(v) cause any land, which by reason of thick vegetation, undergrowth or jungle appears to be in a state injurious to health or offensive to the neighbourhood or to form an impediment to efficient ventilation, to be cleared of such vegetation, undergrowth or jungle;

(vi) cause burning-ghats and burial grounds to be established; and

(vii) cause such other improvements to be made as are necessary to improve the sanitary condition of such union or part; and

(b) the union board may, by written notice, require, within a reasonable period to be specified therein,—

(i) the owner or occupier of any hut, or the owner of any privy to remove such hut or privy either wholly or in part; or

(ii) the owner or occupier of any building to construct private drains therefor or to alter or remove private drains thereof; or

(iii) the owner or occupier of any land or building to which any such well, pool, ditch, tank, pit, pond or place as is referred to in clause (a) (iv) pertains, or of any such land as is referred to in clause (a) (v), to do anything which the union board is itself empowered to do under either of those clauses.

(2) If any work required by any such notice is not executed within the period specified in the notice, the union board may itself cause such work to be carried out, and may recover the cost of such work or part thereof from the owner or occupier referred to in clause (b) of sub-section (1), as if it were an arrear of rate imposed under section 37.

(3) An appeal shall lie against every notice issued under clause (b) of sub-section (1), to the chairman of the district board, who, after giving the owner and occupier full opportunity of adducing evidence and of being heard, may make an order cancelling, modifying or confirming the said notice. Such appeal shall be filed within fifteen days from the date of service of the notice.

of 1919.]

(Part I—Chapter IV—Powers and duties of union boards—Secs 28, 29)

28. (1) A union board may employ an establishment for the cleansing of the union or any part thereof

Power of union board as to cleansing of unions

(2) Where no such establishment is employed by a union board, the board may, by written notice, require owners or occupiers of land in the union to cleanse such land to the satisfaction of the board within a reasonable period, to be specified in the notice

(3) If any person on whom notice has been served under sub section (2) fails to comply with the requisition contained in the notice, the union board shall, unless reasonable cause to the contrary is shown,—

(a) cause the land to be cleansed, and

(b) recover from such person such portion of the cost of such cleansing as the union board may direct, as if it were an amount of rate imposed under section 37

(4) An appeal shall lie against every notice issued under sub section (2) to the chairman of the local board who, after giving the owner and occupier full opportunity of adducing evidence and of being heard, may make an order cancelling, modifying or confirming the said notice. Such appeal shall be filed within fifteen days from the date of service of the notice

29. (1) The union board may, subject to rules made under section 101 by written order,—

Power of union board to control erection of buildings, etc

(a) direct, in accordance with a scheme approved by the local board for any part of the union, that no building, wall or platform shall be erected, re-erected or added to in advance of an alignment to be prescribed by the union board and demarcated on the ground, and

(b) prescribe, in accordance with the said scheme, the space which shall intervene between any new or enlarged building and the building next adjacent and between any new or enlarged building and any road in the union,

[Ben. Act V

(Part I.—Chapter IV.—Powers and duties of union boards.—Sec. 30.)

(2) Where any building, wall or platform has been placed in contravention of an order passed by the union board under sub-section (1), the union board may apply to the district magistrate, and such magistrate may make an order—

- (i) directing either that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (1), be demolished by the owner of the building, wall or platform, or that it be altered by him to the satisfaction of the union board within such time as may be fixed by the district magistrate; or
- (ii) directing that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (1), be demolished or altered by the union board at the expense of the owner within such time as may be fixed by the district magistrate:

Provided that the magistrate shall not make any such order without giving the owner full opportunity of adducing evidence and of being heard.

(3) If any person to whom a direction to demolish or alter any building, wall or platform, is given under clause (i) of sub-section (2), fails to obey the same, he shall be liable to a fine which may extend, in the case of a masonry building, wall or platform, to one hundred rupees, and, in the case of any other building, wall or platform, to twenty rupees, and to a further fine which may extend, in the case of a masonry building, wall or platform, to ten rupees, and in the case of any other building, wall or platform, to two rupees for each day during which, after the period fixed by the district magistrate, he fails to obey the direction to demolish or alter the building, wall or platform.

30. (1) A union board may provide the union or any part thereof, with a supply of water, proper and sufficient, for public and private purposes; and,

Power of union board to provide for proper water-supply.

of 1919.]

(Part I.—Chapter IV —Powers and duties of union boards —Sec 30)

for such purposes, may, or, under the orders of the district board, shall,—

- (a) construct, repair and maintain tanks or wells, and clear out streams or water-courses
- (b) with the sanction of the Local Government, and subject to such rules as may be made under section 101, construct, repair and maintain water works
- (c) purchase or acquire by lease or gift any tank, well, stream or water-course, or any right to take or convey water within or without the union,
- (d) with the consent of the owner thereof, utilize, cleanse or repair any tank, well, stream or water-course within the union, or provide facilities for obtaining water therefrom,
- (e) contract with any person for a supply of water, or
- (f) do any other acts necessary for carrying out the purposes of this section

(2) The union board may, by order published at such places as it may think fit, set apart for the supply to the public of water for drinking or culinary purposes any tank, well, stream or water-course in respect of which action has been taken under clause (a), (c) or (d) of sub-section (1), subject to any rights which the owner referred to in clause (d) of that sub-section may retain with the consent of the board

(3) The union board may, by order published at such places as it may think fit, prohibit all bathing, washing of clothes and animals, or other acts calculated to pollute the water of any tank, well, stream or water-course set apart for drinking or culinary purposes under sub-section (2)

(4) Any person who disobeys an order issued under sub-section (3), shall be punished with fine which may extend to twenty-five rupees

(Part I.—Chapter IV.—Powers and duties of union boards.—Secs. 31-34.)

Powers of union board as to roads, bridges and water-ways.

31. The union board shall have control of all roads, bridges and water-ways within the union, not being private property and not being under the control of the Local Government or the district board or local board, and may do all things necessary for the maintenance and repair thereof, and may—

- (a) lay out and make new roads ;
- (b) construct new bridges ;
- (c) divert, discontinue or close any road or bridge ;
- (d) widen, open, enlarge or otherwise improve any road or bridge ;
- (e) deepen or otherwise improve water-ways ; and
- (f) provide for the lighting of any road or public place within the union.

Establishment of primary schools and dispensaries.

32. The union board may, subject to any rules made under section 101, establish primary schools or dispensaries, or assume charge of existing primary schools or dispensaries, and shall repair, maintain and manage any primary school or dispensary under its charge.

Transfer of certain duties from the district or local board to a union board.

33. The district board or local board may, from time to time, with the consent of the union board, make over to a union board, subject to such conditions as they may deem necessary, the management of any institution or the execution of any work or duty within the area over which the union board has control ; and thereupon such union board shall do all things necessary for the management of the institution or the execution of the work or duty :

Provided that the funds necessary for the management of the institution and the execution of the work or duty shall be placed by the district board or local board at the disposal of the union board.

Prohibition of certain offensive or dangerous trades without license.

34. (1) This section shall not apply to any union constituted under section 5 until the Local Government specially extends it thereto by notification.

of 1919.]

(Part I — Chapter IV — Powers and duties of union boards — Sec 35)

(2) In any union to which this section is so extended, no place shall be used without a license from the union board, which shall be renewable annually for the purpose of any trade or business which the Local Government may, by notification, declare to be offensive or dangerous

(3) A notification under sub-section (2) may authorize the union board to levy a fee not exceeding such maximum amount as may be specified in the notification in respect of any license granted by it, and subject to the approval of the district magistrate, to impose such conditions in respect of such license as may be considered necessary

(4) Whoever, in any union, uses any place for the purpose of any trade or business which is declared under sub-section (2) to be offensive or dangerous, or fails to comply with any condition subject to which a license is granted under that sub-section, shall be punished with fine which may extend to twenty-five rupees, and to a further fine which may extend to five rupees for each day after conviction during which he continues so to offend

(5) The union board, upon the conviction of any person for failing to comply with any condition of a license granted under sub-section (2), may suspend or cancel any such license

(6) An appeal shall lie to the district magistrate against every order by a union board refusing, suspending or cancelling a license, and the decision of the district magistrate thereon shall be final

35. The union board, or any member, officer or servant thereof, may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection or execute any work for the purposes of, or in pursuance of, clause (1) of section 26 or section 27, 28, 29, 30, 31, 32, 33 or 34

Provided as follows

(a) no such entry shall be made between sunset and sunrise,

(b) no dwelling-house shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice signed by the president or vice-president of the intention to make such entry, and

[Ben. Act V

(Part I.—Chapter IV.—Powers and duties of union boards.—Chapter V.—Union fund.—Secs. 36-38.)

(c) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

Appointment of
establishment for
union board.

36. With the approval of the local board, a union board may appoint such staff of officers and servants as it may consider necessary to carry out its duties under this Act, and may fix the salaries to be paid to such staff.

CHAPTER V.

UNION FUND.

Imposition of
union rate

37. The union board shall impose yearly on the owners or occupiers of buildings, within the union, a rate amounting to—

- (a) the sum required, after deduction of the contribution, if any, made by the Local Government in this behalf, for the salaries and equipment of the dafadars and chaukidars and the salaries of the establishment of the union board, and
- (b) the sum estimated to be required to meet the the expenses of the board in carrying out any of the other purposes of this Act, if such estimate has been approved by not less than two-thirds of the total number of the members of the board at a meeting specially convened for the purpose,

together with ten *per cent.* above such sums to meet the expenses of collections and the losses due to non-realization of the rate from defaulters.

Nature of as-
-essment.

38. (1) The rate to be imposed by a union board under section 37 shall be an assessment according to the circumstances and the property within the union of the persons liable to the same :

Provided that the amount assessed upon any person in any one year shall not be more than eighty-four rupees.

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(Part I—Chapter V—Union fund—Secs
39-42)

(2) Any person who, in the opinion of the union board, is too poor to pay half an anna a month, shall be altogether exempted from payment of any rate under this Act

39. The assessment for the imposition of the rate under section 37 shall be made in accordance with rules prescribed under section 101, and any person dissatisfied with the amount at which he has been assessed may, within such time as may be specified in those rules, apply to the union board, either orally or in writing for a revision of the assessment, and the union board may amend the assessment or confirm the same

Procedure of assessment and revision thereof by the union board

40. The district magistrate may, at any time, call for the papers containing the assessment of the union rate imposed under section 37, and may, after such inquiry as may be necessary, pass such orders thereon as he may think proper

Power of district magistrate to revise assessment

41. The payment of the rate shall be made in accordance with rules prescribed under section 101, and, in case of default of any such payment, the president of the union board, or, if so directed by him, the vice-president, shall cause the *chaukidar* or any other person authorized in writing by the president or the vice-president to levy, by the distraint and sale of a sufficient portion of the movable property of the defaulter, the amount of his arrear, together with a sum equal to half the amount of such arrear, by way of penalty

Arrear to be recovered by distraint and sale of movable property of defaulter

42. (1) The distraint and sale of such movable property shall be conducted in accordance with rules prescribed under section 101

What property may be distrained and sold for arrears

(2) All goods and chattels, except plough-cattle and tools and implements of trade and agriculture, found in or upon any building or land occupied by any defaulter, shall be deemed to be his property, and shall be liable to be distrained and sold for the recovery of the arrear, and also the penalty due under section 41.

[Ben. Act V]

(Part I.—Chapter V.—Union fund.—Secs. 43-45.)

(3) If any of the goods and chattels liable to be distrained belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner of such goods and chattels for any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress or any sale under the same.

Distrain and
sale of property
beyond limits of
the union.

43. If the union board is unable to recover under section 12 the amount due for the arrear of rate and the penalty, the district magistrate may, on the application of the union board, issue his warrant to any officer of his court for the distress and sale of any movable property or effects belonging to the defaulter within any other part of the jurisdiction of the magistrate, or for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any other magistrate exercising jurisdiction within Bengal; and such other magistrate shall endorse the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the magistrate issuing the warrant, who shall remit the same to the union board.

Irregularities
not to avoid
distrain.

44. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser on account of any defect irregularity or want of form in any assessment, notice, summons, power, writing, inventory or other proceeding relating thereto, nor shall such person be deemed a trespasser from the commencement on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them, in any court of competent jurisdiction, subject to the provisions of section 64.

Grants-in-aid
from district
fund.

45. The district board may make to the union board such grants-in-aid from the district fund, as they may think fit, to enable the union board to carry out any of the purposes of this Act, and may attach to such grants any conditions that may appear to the district board to be desirable:

Provided always that in the case of any union board which has imposed a rate under clause (b) of section 37 the district board shall make a suitable grant-in-aid.

of 1919.]

(Part I—Chapter V—Union fund—Chapter VI—
General provisions relating to union boards—
Secs 46-48)

46. (1) All sums realized under section 41 and all sums realized as fines fees or costs under this Act, other than fines imposed under section 22, any fees paid to the union board in respect of processes served through the board, and all other receipts of the union board, union bench or union court, including any donation or contribution from a private person shall be paid into a fund to be called "the union fund", the accounts of which shall be kept in accordance with rules prescribed under section 101 Union fund

(2) Except as is otherwise provided in this Act, the expenses incurred by the union board, the union bench or the union court in carrying out the purposes of this Act including such reasonable compensation as the board may think fit to pay under section 61, shall be paid out of the union fund

Provided that the salaries and cost of equipment of dafadars and chaukidars and the salaries of the establishment of the union board shall be the first charge upon the union fund

Provided also that all sums made over to a union board for any specific purpose shall be applied solely to that purpose

CHAPTER VI

GENERAL PROVISIONS RELATING TO UNION BOARDS

Delegation.

47. The district magistrate may, by an order in writing, delegate the powers or duties specified in the first column of schedule III to the officers mentioned in the second column thereof Delegation district magistrate's powers and duties

Disputes

48. (1) If a dispute arises between two or more union boards, which are subordinate to the same local board, the matter shall be referred to such local board, and the decision of the local board hereon shall be final and binding Disputes between boards bet union

[Ben. Act V

(Part I.—Chapter VI.—General provisions relating
to union boards.—Secs. 49—52.)

(2) If a dispute arises between two or more union boards, which are within the same district but which are subordinate to different local boards, the matter shall be referred to the district board; and the decision of such district board thereon shall be final and binding.

Disputes between a municipal authority and a union board.

49. If a dispute arises between a municipal authority and a union board within the same district, the matter shall be referred to the district magistrate; and the decision of the district magistrate thereon shall be final and binding :

Provided that, if the district magistrate is a member of the municipal authority concerned, his functions under this section shall be discharged by the commissioner.

Control.

Local board to superintend the administration of union boards.

50. Subject to the control of the district board, a local board shall superintend the administration of union boards within the area under the authority of the local board, except in matters relating to dafadars and chaukidars.

Supervision of union boards by commissioners and other officers.

51. (1) It shall be the duty of all commissioners, district magistrates, subdivisional magistrates, circle officers and chairmen of district boards and local boards to see that the proceedings of union boards are in conformity with law and with the rules in force thereunder.

(2) The commissioner may, by order in writing, annul any proceeding which he considers not to be in conformity with law and with the said rules, and may do all things necessary to secure such conformity.

Inspection of union board record.

52. Every union board shall at all times permit the commissioner, the district magistrate, the chairman of the district board or local board, or any other person authorised by them or by the Local Government, to have access to all its books, proceedings and records.

of 1919.]

(Part I—Chapter VI—General provisions relating
to union boards.—Secs. 53—55)

53. The commissioner, the district magistrate, the chairman of the district board and local board and any other person authorised by them or by the Local Government, shall have power at all times to enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by, or any work in progress under the orders of, or any institution controlled by, a union board

Inspection of
work or property
of union board

54. (1) If at any time the district magistrate is satisfied that the whole or any portion of the salaries, or of the cost of equipment, of dafadars and chaukidars, or of the salaries of the establishment of a union board, is in arrear, the district magistrate may appoint such person or persons as he may consider necessary to realize any sum so due, together with the incidental cost (if any) of collecting it.

Special prov
sion in case of
non payment of
chaukidars and
staff

(2) Any person so appointed may realize any such sum and cost either from the balance at the credit of the union fund or by the collection of any outstanding portion of the union rate as assessed by the union board, or, if the amount so collected is insufficient, by the imposition and collection of a supplementary assessment.

(3) A person so appointed shall exercise all the powers vested in the union board for the assessment and collection of the union rate.

(4) The amount collected under sub-section (2) shall be disbursed in the payment of the sum and the cost referred to in sub-section (1) and the balance (if any) shall be paid to the union fund

55. (1) When a union board makes default in performing any duty imposed on it by the district board under section 27 or section 30, the district board may fix a period for the performance of that duty.

Power to
provide for
performance
of duties
under section
27 or 30 in
case of default
by a union board

(2, If any such duty is not performed within the period fixed under sub-section (1), the district board may appoint such person or persons as they consider necessary to perform it, and may direct that the expense of performing it, together with a reasonable remuneration to such person or persons, shall be forthwith paid by the union board.

[Ben. Act V]

*(Part I.—Chapter VI.—General provisions relating
to union boards.—Secs. 56-58.)*

Power to remove
the president or
supersede a union
board.

56. (1) If the commissioner, after consideration of the views of the district magistrate and the district board, is of opinion that a union board is not competent to perform, or persistently makes default in the performance of, the duties imposed upon it by, or under, this or any other Act, or exceeds or abuses its powers, the commissioner may, by an order in writing specifying the reasons for so doing, either—

(a) remove the president of the union board from his office both as president and as member; or

(b) supersede the board for a period to be specified in the order.

(2) Every such order shall be published locally in such manner as may be prescribed by rules under section 101.

Consequences of
supersession.

57. (1) When a union board is superseded under section 56, sub-section (1), the following consequences shall ensue :—

(a) all members constituting the board shall, as from the date of the order, vacate their offices as such members;

(b) all powers and duties of the union board shall, during the period of supersession, be exercised and performed by such local authority, person or persons, and in such manner as the commissioner may direct; and

(c) all property vested in the union board shall, during that period, vest in such local authority, person or persons, and in such manner, as the commissioner may direct.

(2) On the expiration of the period of supersession the union board shall be re-established by re-election or re-appointment in the manner provided in section 6.

Power to sus-
pend action of
union board.

58. The district magistrate, or the district board, may, by an order in writing, suspend the execution of any order or resolution of a union board within the

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(Part I—Chapter VI—General provisions relating to union boards—Secs 59, 60)

jurisdiction of such magistrate or district board, or the doing of any act which is about to be done, or is being done, by such union board, if in the opinion of the district magistrate or the district board the execution of the resolution or order, or the doing of the act is likely to cause injury, or annoyance to the public, or to any class or body of persons, or to lead to a breach of the peace

59. When the district magistrate or the district board makes any order under section 58, the magistrate or board, as the case may be, shall forthwith submit to the commissioner a copy of the order, with a statement of the reasons for making it and with any explanation which the union board concerned may wish to offer, and the commissioner may thereupon confirm, modify or rescind the order

Order of magistrate or district board under section 58 to be reported to the Commissioner

Miscellaneous

60. (1) If any member of a union board otherwise than with the sanction of the local board, or if any officer or servant maintained by or employed under the union board, participates or agrees to participate in the profits of any work done by the union board or is concerned or participates in the profits of any contract entered into with the board, he shall be liable on conviction before a criminal court to a fine which may extend to five hundred rupees

Penalty on member or servant being interested in a contract, made with a union board

Provided that the penalty herein prescribed shall not be deemed to apply by reason only of a person—

- (a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the union board, or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the union board may be inserted, or
- (c) holding a debenture or being otherwise concerned in any loan raised by, or on behalf of, the union board, or
- (d) being a member of a society registered under the Co-operative Societies Act, 1912¹, which enters into any contract with the union board

*(Part I.—Chapter VI.—General provisions relating
to union boards.—Secs. 61-64.)*

(2) Nevertheless it shall not be lawful for a person having any share or interest, such as is described in clauses (a) and (b) of the proviso to sub-section (1), to act as a member of the union board in any matter relating to a contract or agreement between the union board and such company or the manager or publisher of such newspaper.

(3) Nothing in this section shall apply to the payment of fees to a legal practitioner for services rendered by him in his professional capacity.

Power to make
compensation for
damage.

61. Every union board may make compensation to any person sustaining any damage by reason of the exercise of any of the powers conferred by this Act.

Liability
members.

of

62. (1) No member of a union board shall be personally liable for any contract made, or expense incurred, by or on behalf of the board.

(2) Every member shall be personally liable for any wilful misapplication of money entrusted to the union board to which he shall knowingly have been a party, and he shall be liable to be sued for the same by the district board.

Bar to suits.

63. No suit or other legal proceeding shall lie against a union board, or any member or officer thereof acting under the direction of such board, in respect of anything done lawfully and in good faith and with due care and attention under this Act or any rule made hereunder.

No suit to be
brought until
after one month's
notice of cause
of action.

64. (1) No suit or other legal proceeding shall be brought against any union board or any of its members or officers, or any person acting under its direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such board, and also (if the suit is intended to be brought against any member or officer of the said board, or any person acting under its direction) at the place of abode of the person against whom such suit is intended to be brought, stating the cause of action and the name and

of 1919.]

(Part II —Chapter VII—Union benches and union courts—Secs 65, 66.)

place of abode of the person who intends to bring the suit, and unless such notice be proved, the court shall find for the defendant

(2) Every such action shall be commenced within three months after the accrual of the cause of action, and not afterwards

(3) If any union board or person to whom a notice under sub section (1) is given shall, before a suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover

PART II.

CHAPTER VII

UNION BENCHES AND UNION COURTS

Union benches

65. Whenever a union board has been established for any union the Local Government may, by notification, appoint any two or more of the members of the board to be a union bench, during their term of office as members of the board, for the trial, in the whole or any part of the union, of the offences specified in schedule IV, if committed within the limits of its jurisdiction

Constitution of union bench

66. Notwithstanding anything contained in the Code of Criminal Procedure, 1898¹, the union bench shall have jurisdiction concurrent with that of the criminal court within the local limits of whose jurisdiction the union is situated, for the trial of all offences specified in schedule IV, part A, and the union bench may try any offence specified in schedule IV, part B, if the case is transferred to the bench by a district magistrate, subdivisional magistrate or any other magistrate empowered to receive petitions under section 190 of the Code of Criminal Procedure, 1898¹

Jurisdiction of union bench

Provided as follows —

- (a) a magistrate before whom a complaint of an offence cognizable by a union bench is brought may transfer the complaint to the union bench,

(Part II.—Chapter VII.—Union benches and union courts.—Secs. 67—70.)

(b) the district magistrate or subdivisional magistrate may transfer any case from one union bench to another or to any other court subordinate to him.

How case may
be instituted.

67. A case before a union bench may be instituted by petition, made orally or in writing to a member of the union bench. If the petition is made orally, the member shall record the name of the petitioner, the name of the person against whom the petition is brought, the nature of the offence and such other particulars, if any, as may be prescribed by rules under section 101, and shall direct the petitioner to appear before the bench.

Power of bench
to dismiss or to
refuse to entertain
petition.

68. (1) If upon the face of the petition, or on examining the petitioner, the union bench is of opinion that the petition is frivolous, vexatious or untrue, it shall dismiss the case by order in writing.

(2) If at any time it appears to the bench—

(a) that it has no jurisdiction to try the case, or

(b) that the offence is one for which the sentence which the bench is competent to pass would be inadequate, or

(c) that the case is one which should not be tried by the bench,

it shall direct the petitioner to the proper court.

Dismissal of
case for default.

69. If in any case before a union bench the petitioner fails to appear on the day fixed, or if in the opinion of the bench he shows negligence in prosecuting his case the bench may dismiss the case for default, and such order of dismissal shall operate as an acquittal.

Proceedings preliminary to trial

70. (1) If the petition be not dismissed the union bench shall, subject to the provisions of section 98, by summons or otherwise, require the accused to appear and answer the petition.

(2) If the accused fails to appear or cannot be found, the bench shall report the fact to the nearest magistrate, who may issue a warrant for the arrest of

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(Part II—Chapter VII—Union benches and union courts—Secs 71, 72)

the accused, and when arrested may forward him for trial to the bench, or release him on bail to appear before it

(3) The union bench shall, if possible, try the case on the day on which the accused appears or is brought before it, but if that is not possible the union bench shall release him on his executing a bond for a sum not exceeding twenty-five rupees to appear before the bench on any subsequent day or days to which the trial may be adjourned

98

71. Notwithstanding anything contained in the Code of Criminal Procedure 1898¹, there shall be no appeal by a convicted person in any case tried by a union bench

Bar to appeal from or revision of the order of union bench but power to order retrial

Provided that the district magistrate or sub-divisional magistrate, if satisfied that a failure of justice has occurred, may, of his own motion, or on the application of the parties concerned, cancel or modify any order of conviction or of compensation made by a union bench or direct the retrial of any case by a court of competent jurisdiction subordinate to him

72. (1) A union bench shall record its decision in writing, and may sentence any offender convicted by it to pay a fine not exceeding twenty-five rupees or in default to imprisonment for a period not exceeding seven days

Power of union bench to impose fine or to award compensation

(2) If a union bench is satisfied that a complaint made before it or transferred to it for trial is vexatious or frivolous, the bench may order the complainant to pay to the accused such compensation, not exceeding twenty-five rupees in all, as it thinks fit, or in default may sentence the complainant to simple imprisonment for a period not exceeding seven days

(3) When a person has been sentenced to imprisonment under sub-section (1) or sub-section (2) in default of such payment, if such fine or compensation be not paid or realized within ten days of the passing of the sentence or order, or within such further time, if any, as the bench may allow, the

¹ General Acts, Vol. V.

[Ben. Act V

(Part II.—Chapter VII.—Union benches and union courts.—Secs. 73, 74.)

bench may cause him to be arrested and may commit him to the nearest jail to serve his sentence :

Provided that, notwithstanding anything contained in the Indian Penal Code¹.—

Act XLV of 1860.

- (a) the fine imposed or compensation awarded by a union bench shall not be realized from any person who has served his term of imprisonment under this section ;
- (b) the person serving his term of imprisonment shall be forthwith released, if the fine or compensation is paid before the expiry of the term of imprisonment :

Provided also that no woman shall be sentenced to imprisonment in default of payment of fine or compensation.

(4) All fines realised by the union bench shall be credited to the union fund.

Union courts.

Constitution of union court.

73. Whenever a union board has been established for a union, the Local Government may, by notification, appoint any two or more of the members of the board to be a union court during their term of office as members of the board, for the trial; in the whole or any part of the union, of all or any of the classes of civil suits specified in section 74.

Jurisdiction of union court.

74. Notwithstanding anything contained in the Bengal. Agra and Assam Civil Courts Act, 1887², the Provincial Small Cause Courts Act, 1887³, and the Code of Civil Procedure, 1908⁴, and subject to the provisions of sections 75 and 76, the union court and the ordinary civil court, within the local limits of whose jurisdiction the union is situated, shall have concurrent jurisdiction to try the following classes of suits, namely :—

XII of 1887
IX of 1887.

Act V of 19

- (a) suits for money due on contracts ;
- (b) suits for the recovery of movable property or the value of such property ; and

¹General Acts, Vol. I.²Bengal Code, Vol. I.³General Acts, Vol. IV.⁴General Acts, Vol VI.

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(Part II—Chapter VII—Union benches and union courts—s cs 75, 76)

(c) suits for compensation for wrongfully taking or injuring movable property,

when the value of the suit does not exceed two hundred rupees

Provided that, on the application of any defendant made in accordance with the provisions of section 51, the court of small causes or court of the munsif, within the local limits of whose jurisdiction the union is situated,—

(i) may withdraw the suit when its value does not exceed twenty-five rupees, and

(ii) shall withdraw the suit when its value exceeds twenty-five rupees,

from a union court for trial by itself

75. No suit shall lie in any union court—

Certain suits not to be tried by union court

(1) on a balance of partnership account,

(2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will,

(3) by or against Government or public officers in their official capacity,

(4) by or against minors or persons of unsound mind,

(5) for the assessment, enhancement, reduction, abatement, apportionment or recovery of rent of immovable property or

(6) by a mortgagee of immovable property for the enforcement of the mortgage by foreclosure or sale of the property or otherwise, or by a mortgagor of immovable property for the redemption of the mortgage

76. No suit shall lie in any union court, unless at least one of the defendants resides within the limits of its jurisdiction at the time of the institution of the suit, and the cause of action has arisen wholly or in part within those limits.

Local limits of jurisdiction of union court

(Part II.—Chapter VII.—Union benches and union courts.—Secs. 77-82.)

How suit may
be instituted.

77. (1) A suit before a union court may be instituted by petition made orally or in writing. If the petition is made orally, the court shall record such particulars as may be prescribed by rules under section 101.

(2) The plaintiff on instituting his suit shall state the value of the claim.

Action to be
taken if suit not
triable by a union
court.

78. (1) If at any time the union court is of opinion that the suit is barred by limitation, the court shall dismiss the suit by order in writing.

(2) If at any time it appears to the court that it has no jurisdiction to entertain the suit, the court shall direct the petitioner to the proper court.

Dismissal of
suit for default.

79. If in any suit before a union court the plaintiff fails to appear on the day fixed, or, if in the opinion of the court, he shows negligence in prosecuting his suit, the court may dismiss the suit for default:

Provided that a union court may restore a suit dismissed for default, if within thirty days from the date of such dismissal the plaintiff satisfies the court that he was prevented by sufficient cause from appearing.

Summons to
defendant to
appear and
answer.

80. If on receiving the petition the union court is satisfied that the trial of the suit may be proceeded with, it shall, by summons or otherwise, require the defendant to appear and answer the suit either orally or in writing.

Postponement
on application for
transfer.

81. If, before the commencement of the hearing of the suit, the defendant notifies to the union court that he has applied or that he intends to apply under the proviso to section 74 for the transfer of the suit to the court of small causes or the court of the munsif, the union court shall postpone the trial in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon.

Ex parte
decision.

82. If the defendant fails to appear, and the union court is satisfied that he has received notice of the date fixed for the hearing, the court may decide the suit *ex parte*:

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(Part II—Chapter VII—Union benches and union courts—Sees 83—86)

Provided that any defendant against whom a suit has been decided *ex parte* may, within thirty days from the date of executing any process for enforcement of the decision, apply, orally or in writing, to the union court to set aside the order, and the court, if satisfied that the defendant did not receive due notice of the date of hearing, or was prevented from appearing by any sufficient cause, shall set aside the decision and shall appoint a day for proceeding with the suit

83. No decision or order of a union court shall be set aside under section 79 or section 82 unless notice in writing has been served by the union court on the opposite party

No order to be set aside without notice to opposite party

84. (1) Subject to the provisions of clauses (3) and (4) of section 75 the union court shall add as parties to a suit any persons whose presence as parties it considers necessary for a proper decision thereof, and shall enter the names of such parties in the register of suits, and the suit shall be tried as between the parties whose names are entered in the said register

Power of union court to determine necessary parties

Provided that when any party is added, notice shall be given to him and he shall be given an opportunity of appearing before the trial of the suit is proceeded with

(2) In all cases where a new party appears under the proviso to sub-section (1) during the trial of a suit, he may require that the trial shall begin *de novo*

85. No union court shall proceed with the trial of any suit in which the matter directly and substantially in dispute is pending for decision in the same court or in any other court in a previously instituted suit between the same parties, or between parties under whom they or any of them claim, or has been heard and finally decided in a suit between the same parties, or between parties under whom they or any of them claim

Certain suits not to be tried by union court

86. When the parties or their agents have been heard and the evidence on both sides considered, the union court shall, by written order, pass such decree as may seem just, equitable and according to

Decision of union court

(Part II.—Chapter VII.—Union benches and union
courts.—Secs. 86—92.)

good conscience, stating in the decree the amounts payable as fees under section 90, and the amount, if any, paid to witnesses under section 96, sub-section (3), and the persons by whom such amounts are payable.

Instalments.

87. A union court in ordering the payment of a sum of money or the delivery of any moveable property may direct that the money be paid, or the moveable property be delivered, by instalments.

Decision of
union court to be
final; but power
to order retrial.

88. The decision of a union court in every suit shall be final as between the parties to the suit:

Provided that the district judge may, on the application of any party to the suit made within thirty days of the decree of the union court, cancel or modify the order of the union court or direct a retrial of the suit by the same or any other union court or by any other court subordinate to him if he is satisfied that there has been a failure of justice.

Death
parties.

89. If the plaintiff or defendant in any suit dies before the suit has been decided, the suit may, subject to the provisions of clause (4) of section 75, be proceeded with at the instance of, or against, the legal representatives of the deceased plaintiff or defendant, as the case may be.

Fee.

90. (1) In all suits instituted in and decided by a union court a fee of one anna in the rupee shall be payable on the amount of the claim up to twenty-five rupees, and an additional fee of half-an-anna for every rupee of the claim above twenty-five rupees.

(2) If the claim is decreed in full, the fee shall be realized from the judgment-debtor together with the amount decreed.

(3) If the amount is decreed in part the fee shall be realized *pro rata* from the decree-holder and the judgment-debtor.

(4) If the suit is dismissed, the fee shall be realized from the plaintiff.

(5) All such fees realized by the union court shall be credited to the union fund and shall not be paid to either party.

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(Part II—Chapter VII—Union benches and union courts—Secs 91—93)

91. (1) If the union court granting a decree is unable to effect satisfaction thereof, it shall grant the decree holder a certificate to that effect stating the amount due to him and the amount due on account of fees under section 90

Execution of decree

(2) Any decree-holder wishing to execute a decree of a union court may apply to the court of the munsif within the local limits of whose jurisdiction the union is situated and shall present with his application a certified copy of the order of the union court, but no application for execution shall be entertained by the munsif—

(a) unless the union court has certified that it is unable to effect satisfaction of the decree, and

(b) unless the application is made after the expiry of three months from the date of the decree

(3) In executing a decree of a union court a munsif shall have the same powers and follow the same procedure as if he were executing a decree passed by himself, but any amount realized on account of fees under section 90 shall be credited to the Local Government

92. When the amount decreed under section 86 and the amount due on account of fees under section 90 are not realized in full, such sum as is realized shall be rateably distributed—

Sums realized in part satisfaction of demand to be distributed rateably

(a) if realized by the union court, between the decree holder and the union fund, and

(b) if realized by the court of the munsif, between the decree-holder and the Local Government

General provisions relating to union benches and union courts

93. (1) The provisions of—

(a) the Court-fees Act, 1870,¹

(b) the Code of Criminal Procedure, 1898,² excepting Chapter XXXIII, and

(c) the Code of Civil Procedure, 1908,³

Procedure by union benches and union courts

shall not apply to any trial, suit or proceeding before a union bench or a union court

¹ General Acts, Vol II.

² General Acts, Vol V.

³ General Acts, Vol VI.

[Ben. Act V

(Part II.—Chapter VII.—Union benches and union
courts—Secs. 94—96.)

(2) The procedure to be followed by a union bench or a union court in any trial, suit or proceeding and in the enforcement of its decisions and orders, and in the method of forming a quorum shall, subject to the provisions of this Act, be in accordance with rules prescribed under section 101.

Persons who
are to preside
over union bench
or union court.

94. (1) The union bench and the union court shall be presided over by the president of the union board, if he is a member of the bench or court.

(2) If the president of the union board is absent from a sitting of the union bench or court, or if he is not a member of the bench or court, the bench or court, as the case may be, shall elect its own president.

(3) In case of difference of opinion among the members of the bench or court the decision or order of the bench or court shall follow the opinion of the majority of the members present and voting.

(4) In case of an equality of votes, the person presiding over the bench or court shall have a second or casting vote.

Member of
union bench or
court not to try
case or suit in
which he is inter-
ested.

95. No member of a union bench or union court shall try any case or suit or other proceeding to or in which he is a party, or personally interested.

Explanation.—A member of a union bench or union court shall not be deemed a party or personally interested within the meaning of this section in any case by reason only that he is a member of a union board.

Attendance of
witnesses.

96. (1) Subject to the provisions of section 98, a union bench or a union court may, by summons or otherwise, send for any person to appear and give evidence or to produce or cause the production of any document:

Provided that no person who is exempt from personal appearance in court under section 133, sub-section (1), of the Code of Civil Procedure, 1908,¹ shall be required to appear in person before a union court.

¹ General Acts, Vol. VI.

of 1919.]

(Part II—Chapter VII—Union benches and union courts—Secs 97, 98)

(2) A union bench or a union court shall refuse to summon a witness or to enforce a summons already issued against a witness, where, in the opinion of the bench or court the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable

(3) A union bench or union court shall not require any person living outside the union to give evidence, unless such a sum of money be paid to him as appears to the bench or court to be sufficient to defray his travelling and other expenses in passing to and from the bench or court and for one day's attendance

(4) If any person whom a union bench or a union court summons by written order to appear or give evidence, or to produce any document before it fails to obey such summons a union bench may take cognizance of such offence and may sentence any person convicted thereof to a fine not exceeding twenty-five rupees

97. (1) The parties to cases triable by a union bench shall appear personally before such bench

Appearance of parties before union bench or union court

Provided that the union bench, if it sees reason so to do, may dispense with the personal attendance of an accused and permit him to appear by agent

(2) The parties to suits triable by a union court may appear by agent.

"Agent" in sub-sections (1) and (2) means a full-time servant or a partner or a relative of the party, whom the union bench or union court may admit as a fit person to represent a party, and who is authorized to appear and plead for such party

(3) Notwithstanding anything contained in the Legal Practitioners Act, 1879,¹ legal practitioners shall not be permitted to practise before a union bench or union court

98. No woman shall against her will, be compelled to appear in person before a union bench as an accused, or before a union bench or union court as a witness.

Appearance of women

[Ben. Act V

(Part II.—Chapter VII.—Union benches and union
courts.—Part III.—Chapter VIII.—
Miscellaneous—Secs. 99—101.)

Realization of
fees, fines, etc.

99. All fees and fines imposed and all sums due on bonds and all sums decreed and compensation awarded under this Act by a union bench or union court may be realized under the orders of the union bench or union court, as the case may be, in the same manner as an arrear of rate imposed under section 37.

Registers and
records.

100. Every union bench and union court shall maintain such registers and records and submit such returns as may be prescribed by rules under section 101.

PART III.

CHAPTER VIII.

MISCELLANEOUS.

Power of
Local
Government
to make rules.

101. (1) The Local Government may, after previous publication¹, make rules² to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Local Government may make rules—

(a) determining the manner and time of appointment or election of members of union boards, the action to be taken under section 6, sub-section (4), in the case of the failure of an election, the registration of voters and candidates and the manner in which the votes shall be taken, and generally regulating all elections under this Act and determining the authority who shall decide disputes relating to such elections;

(b) fixing the time within which the elections of the president of a union board shall be held, and the time within which an election to fill a casual vacancy in such office shall be held;

¹ As to previous publication see the Bengal General Clauses Act, 1899 (Ben. Act I of 1899) s. 24. ---

² For rules under this section see the Bengal Local Statutory Rules and Orders.

of 1919.]

*(Part III—Chapter VIII.—Miscellaneous —
Sec 101)*

- (c) regulating the powers of union boards to transfer property,
- (d) prescribing the powers to be exercised by the president or vice-president of a union board,
- (e) regulating the conduct of meetings of union boards and the method of forming a quorum,
- (f) prescribing the registers and records to be maintained and the returns to be submitted by union boards, union benches and union courts,
- (g) regulating the powers and duties of union boards in regard to the control to be exercised by them over dafadars and chaukidars within the union,
- (h) prescribing the duties of dafadars and chaukidars, and fixing the time and manner of the payment by the union board of the salaries of dafadars and chaukidars, and the cost of their equipment,
- (i) prescribing the processes to be served by dafadars or chaukidars, and regulating the service of such processes,
- (j) regulating the powers and duties of union boards in regard to sanitation, conservancy, drainage, buildings, roads, bridges and water-supply under sections 26, 27, 28, 29, 30, 31, and 35, and in regard to schools and dispensaries under section 32,
- (k) for the making of an assessment by the union board under section 39, for imposing the rate under section 37, and prescribing under section 41 the method and time of payment of such rate,
- (l) for the conduct of the distraint and sale of moveable property of defaulters under section 42,
- (m) prescribing the method in which the accounts of the union fund shall be kept and audited;
- (n) regulating the realization and disbursement, under section 51, of the amount required to meet the arrears therein specified;
- (o) prescribing the manner in which orders under section 56 shall be published,

[Ben. Act V.]

(Part III.—Chapter VIII.—Miscellaneous.—
Secs. 102. 103.)

- (p) prescribing the particulars of petitions under sections 67 and 77 which shall be entered in the registers of union benches and union courts:
- (q) regulating the procedure to be followed by a union bench or a union court in the institution, trial and disposal of criminal cases and civil suits, and prescribing the method of forming a quorum:
- (r) regulating the issue, service or execution of summonses and other processes by union benches or union courts, and the issue and service of notices by union boards;
- (s) determining the procedure for the execution of decrees, orders and sentences of union courts and union benches;
- (t) regulating the transfer by union benches or union courts of summonses and other processes to ordinary courts for their service or execution by such courts: and
- (u) prescribing the fees to be levied by union benches and union courts for copies of documents, and determining the procedure to be followed in furnishing such copies.

(3) The rules made under sub-section (2) shall be published in such manner as the Local Government may direct.

Members of
union board, etc.,
not to bid for or
buy property

102. No member of a union board, union bench or union court, or other officer having any duty to perform in connection with any sale under this Act, shall directly or indirectly bid for or acquire any interest in any property sold at such sale.

Membership not
a bar to trial of
cases.

103. A judge or a magistrate shall not be deemed to be a party to, or personally interested in, any case under this Act, within the meaning of section 556 of the Code of Criminal Procedure, 1898,¹ merely because he is a member of the union board.

Act
1898.

THE BENGAL VILLAGE SELF-GOVERNMENT
ACT, 1919.

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(Schedule I—Enactments repealed or amended)

SCHEDULE I.

ENACTMENTS REPEALED OR AMENDED.

(See section 2)

1	2	3	4
Year	No	Short title	Extent of repeal or amendment
1870	VI	The Village chaukidari Act, 1870	The whole except the preamble and sections 1, 48 to 61 (Part II), 60, 67 and 69, and Schedules C and D, shall be repealed
1871	I	The Bengal Village chaukidari Act, 1871	The whole shall be repealed
1885	I	The Bengal ferries Act, 1885	For section 35, the following shall be substituted, namely — "35 It shall be lawful for the Local Government to order that any public ferry shall be managed by a local authority having jurisdiction over the area or any part of the area in which such ferry is situated, and such local authority shall have all the powers vested in the magistrate of the district under this Act except the powers specified in sections 7, 17 and 32, and the Local Government may further order that all or any part of the proceeds of such ferry, and all or any part of the fines levied, and compensation received, under this Act in respect thereof, be paid to such local authority, and thereupon such ferry shall be managed and such proceeds, fines and compensations shall be paid accordingly "
1885	III	The Bengal Local Self-Government Act of 1885	In section 5, for the definition of 'local authority' the following shall be substituted, namely — " 'local authority' means any district board, local board or joint committee constituted under this Act, or any union board constituted under the Bengal Village Self Government Act, 1919 "

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1885	III —contd.	The Bengal Local Self-Government Act of 1885. —contd.	<p>2. In section 6,—</p> <p>(i) in the second paragraph, after the words “any subdivision” the words “or part of a subdivision or” shall be inserted,</p> <p>(ii) for the proviso to that paragraph the following shall be substituted, namely :—</p> <p>“Provided that a local board shall be established in every district or part of a district in which the Bengal Village Self-Government Act, 1919, is in force,” and</p> <p>(iii) in the last paragraph, for the words “subdivision or subdivisions” the word “area” shall be substituted.</p> <p>3. In section 7, the first proviso shall be omitted.</p> <p>4. For section 9, the following shall be substituted, namely :—</p> <p>“9. (1) Such proportion of the members of a local board as the Local Government may from time to time direct shall be elected by persons entitled to vote at an election of members of a union board within the area under the authority of the local board within such time and in accordance with such rules as may be prescribed in this behalf under clause (a) of section 138 :</p> <p>Qualifications of voters and members of local boards.</p> <p>Provided that not less than two-thirds of the members of a local board shall be elected.</p> <p>(2) Every person who is qualified to vote at an election of members of a union board within the area under the authority of a local board shall be entitled to be a member of the local board if duly elected thereto.”</p>

of 1919.]

(Schedule I—Enactments repealed or amended)

1	2	3	4
Year	No	Short title	Extent of repeal or amendment
1885	III— <i>contd</i>	The Bengal Local Self Government Act of 1885— <i>contd</i>	<p>5 In section 11, for the words 'one third of the members of each local board established in a district mentioned in the third schedule of this Act' the words 'The remaining proportion of the members of each local board' shall be substituted</p> <p>6 In section 12, the words "or by three" in the two places where they occur, and the words 'or one third as the case may be' shall be omitted</p> <p>7 Sections 13, 14 and 15 shall be repealed</p> <p>8 In sections 18 and 18A for the words "local board or union committee" the words "or local board" shall be substituted</p> <p>9 Section 36 and the whole of Chapter II of Part I (sections 37 to 44) shall be repealed</p> <p>10 At the end of clause (2) of section 52 the following shall be added namely — "except when levied by a union bench appointed under the Bengal Village Self Government Act, 1919"</p> <p>11 For sub clause (d) of clause <i>Fifthly</i> of section 53, the following shall be substituted, namely — "(d) any sums assigned by the district board to a local board or to a union board constituted under the Bengal Village Self Government Act, 1919"</p> <p>12 The whole of Chapter III of Part II (sections 56 to 58) shall be repealed</p> <p>13 In section 62, after the words "under this Act" the words and figures 'and to the provisions of the Bengal Village Self-Government Act, 1919' shall be inserted</p> <p>14 In section 73, the following words and figures shall be omitted, namely — "but subject to the provisions of Chapter III of Part III thereof"</p>

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1885	III— <i>contd.</i>	The Bengal Local Self-Government Act of 1885— <i>contd.</i>	<p>15. In section 89, the following words shall be inserted at the beginning of the section, namely :—</p> <p>“Subject to the provisions of the Bengal Village Self-Government Act, 1919.”</p> <p>16. The whole of Chapter III of Part III (sections 104 to 119) shall be repealed</p> <p>17. In section 130, the following shall be omitted, namely :—</p> <p>(i) in the first paragraph, the following :— “in respect of a union committee, by the district board or the local board to which the committee may have been declared, by an order under section 119, to be, for the purposes of this section, subordinate, and”;</p> <p>(ii) the whole of the second and third paragraphs, namely :—“When a local board makes any order under this section, it shall forthwith submit to the district board a copy of the order, with a statement of its reasons for making it, and with any explanation which the union committee concerned may wish to offer.</p> <p>The district board may thereupon confirm, modify or rescind the order”; and</p> <p>(iii) in the penultimate paragraph the words “or union committee.”</p> <p>18 In section 131, the words “or union committee,” occurring in two places, shall be omitted.</p> <p>16. In section 132, the following shall be omitted, namely :—</p> <p>(i) in the first paragraph, the words “or union committee,” in the four places where they occur,</p> <p>(ii) in the second paragraph, the words “or committee,” and</p> <p>(iii) the whole of the last paragraph.</p>

of 1919.]

(Schedule I.—Enactments repealed or amended.)

1	2	3	4
Year	No	Short title	Extent of repeal or amendment
1885	III—contd	The Bengal Local Self Government Act of 1885 —contd	<p>20 Section 133 shall be repealed</p> <p>21 In section 138,—</p> <p>(1) the following shall be omitted, namely —</p> <p>(i) in the first paragraph, the words “or union committee,”</p> <p>(ii) in clause (a) the following words, namely —</p> <p>“and the qualifications and disqualifications of such members, and the qualifications and disqualifications,”</p> <p>(iii) clauses (g) and (g1), and</p> <p>(iv) the whole of the last paragraph,</p> <p>(2) at the end of the said clause (a) the following shall be added, namely —</p> <p>“and in the case of district boards the qualifications and disqualifications of members,”</p> <p>(3) in clause (f) for the words “district boards, local boards and union committees” the words “district boards or local boards” shall be substituted</p> <p>22. In section 142, for the words “local board or union committee” the words “or local board” and for the words “union committee, local board, or district board” the words “district board or local board” shall be substituted</p> <p>23 In section 144, for the words “local authority” wherever they occur, the words “district board or local board” shall be substituted</p> <p>24 In section 145, for the words “Every local authority” the words “The district board”, and for the words “the district or union funds respectively,” the words “the district fund” shall be substituted</p>

THE BENGAL VILLAGE SELF-GOVERNMENT
ACT, 1919.

[Ben. Act V]

(*Schedule I.—Enactments repealed or amended.—Schedule II.—Offences to be reported by a chaukidar.*)

1	2	3	4
Year.	No.	Short title.	Extent of repeal or amendment.
1885	III — <i>contd.</i>	The Bengal Local Self-Government Act of 1885 — <i>contd.</i>	25. In section 146, in the first paragraph, the words "or union committee" and, in the two places where they occur, the words "or committee" shall be repealed, and the word "or" shall be inserted after the words "district board." 26. The whole of the third schedule shall be repealed.
1886	I	The Bengal Village-chaukidari (Amendment) Act, 1886.	The whole shall be repealed.
1892	I	The Bengal Village-chaukidari (Amendment) Act, 1892.	The whole shall be repealed.

SCHEDULE II.

OFFENCES TO BE REPORTED BY A CHAUKIDAR.

(*See section 23.*)

Murder, culpable homicide, rape (when the offender is not the husband of the woman raped), dacoity, robbery, theft, mischief by fire, house-breaking, counterfeiting currency notes, coins or stamps, possessing instruments or materials for the purposes of such counterfeiting, causing grievous hurt, riot, administering stupefying drugs, kidnapping, personating public servants, manufacturing, selling or possessing arms without a license and going armed without a license, and all attempts, preparations and conspiracies to commit, and abetments of, the said offences.

of 1919.]

(Schedule III.—Powers and duties which may be
delegated by the district magistrate.)

SCHEDULE III.

POWERS AND DUTIES WHICH MAY BE DELEGATED BY
THE DISTRICT MAGISTRATE.

(See section 47.)

Powers or duties	To whom may be delegated.
1	2
1. Appointment and dismissal of dafadars and chaukidars under section 20 ...	Subdivisional magistrate, superintendent of police or circle officer.
2. Fining of dafadars and chaukidars under section 22 ...	Ditto ditto.
3. Requiring chaukidar to supply local information under section 23 (viii) ...	Subdivisional magistrate.
4. Calling for assessment papers and passing of orders thereon, under section 40. ...	Ditto ditto.
5. Issue of warrant under section 43 for distraint and sale of property of absentees for satisfaction of union rate ...	Ditto ditto.

[Ben Act V of 1919.]

(Schedule IV—Offences triable by a union bench.)

SCHEDULE IV.

OFFENCES TRIABLE BY A UNION BENCH.

(See sections 65 and 66)

PART A.

1. Offences under sections 21, 26 and 27 of the Cattle-trespass Act, 1871.¹ I of 1871.
2. Offences under enactments (other than the Indian Penal Code²) or any rules or by-laws made thereunder which are punishable with fine only up to a limit of twenty-five rupees. Act XLV of 1860.
3. Offences under section 34 of the Police Act, 1861.³ V of 1861.
4. Offences under the Bengal Ferries Act, 1885,³ except those under sections 28 and 30. Ben Act I of 1885.
5. Offences under the following sections of the Indian Penal Code,² namely :—sections 160, 178, 179, 269, 277, 289, 290, 294, 323, 334, 311, 352, 358, 426, 447, 448, 504 and 510 ; and when the value of the property in the opinion of the union bench is not over twenty rupees, sections 379 and 411. Act XLV of 1860.

PART B.

Offences under the following sections of the Indian Penal Code,² namely :—sections 283, 428, 430, 506 and 509 ; and when the value of the property in the opinion of the magistrate is not over twenty rupees, section 403. Act XLV of 1860.

¹ General Acts, Vol. II.² General Acts, Vol I.³ Bengal Code, Vol. II.

BENGAL ACT No. VI OF 1919.

THE BENGAL FOOD ADULTERATION ACT, 1919.

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**(THE BENGAL FOOD ADULTERATION
ACT, 1919.)¹**

[30th July, 1919.]

*An Act to make provision for the prevention of
adulteration of food in Bengal.*

WHEREAS it is expedient to make provision for the prevention of adulteration of food in Bengal;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bengal Food Adulteration Act, 1919. Short title and
local extent

(2) This section shall extend to the whole of Bengal, except Calcutta as defined in clause (7) of section 3 of the Calcutta Municipal Act, 1899²; and the Local Government may, after previous publication, by notification in the *Calcutta Gazette*, extend all or any of the other sections of this Act to any local area outside Calcutta in Bengal.

(3) The Local Government in extending all or any of the sections of this Act, as provided in sub-section (2), may extend the same in respect of all articles of food or may limit the operation of the section or sections extended to any specified article of food.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions

(1) an article of food shall be deemed to be “adulterated” if it has been mixed or packed with any other substance, or if any part of it has been abstracted so as in either case to affect injuriously its quality, substance or nature;

¹ For Statement of Objects and Reasons see *Calcutta Gazette*, 1918, Pt. IV, p. 179.
² V, pp. 1077-1080, and see *Calcutta*
 and 283-284
 ed and re-enacted by the Calcutta
 175.

[Ben. Act VI]

(Chapter I.—Preliminary.—Secs. 3, 4.)

- (2) “food” includes every article used for food or drink by man, other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food; and also includes flavouring matters and condiments;
- (3) “local area” means any area, urban or rural, declared by the Local Government by notification in the *Calcutta Gazette* to be a local area for the purposes of this Act;
- (4) “local authority” means—
- (i) in the case of any Municipality, the Municipal Commissioners;
 - (ii) in the case of a Cantonment, the Cantonment Authority; and
 - (iii) in the case of any other local area, such authority or officer as the Local Government may appoint in this behalf;
- (5) “public analyst” means any person appointed by the Local Government, or by a local authority with the approval of the Local Government, to perform the duties and to exercise the powers of a public analyst prescribed by this Act.

3. The Local Government, or a local authority with the approval of the Local Government, may appoint a person to be the public analyst for any area under their control, and such appointment shall be notified in the *Calcutta Gazette*.

4. The Local Government may declare the normal constituents of any article of food and may determine, by rules in this behalf, what deficiency in any of these constituents, or what addition of extraneous matter or proportion of water in a sample of any article of food, shall, for the purposes of this Act, raise a presumption until the contrary is proved that the article of food is not genuine or is injurious to health; and a public analyst shall have regard to such rules in certifying the result of an analysis under this Act.

Power of Local Government or local authority to appoint public analyst.

Power of Local Government to declare normal constituents of any article of food.

of 1919.]

(Chapter II—General Provisions—Sec 5)

CHAPTER II

GENERAL PROVISIONS

Sale of food

5. (1) No person shall, directly or indirectly, himself or by any other person on his behalf, sell to the prejudice of the purchaser any article of food which is not of the nature, substance or quality of the article demanded by such purchaser, and no person shall, directly or indirectly, himself or by any other person on his behalf, manufacture for sale any article of food which is not of the nature, substance or quality which it purports or is represented to be

Prohibition of sale etc., of food not of the prescribed nature substance or quality

Provided that an offence shall not be deemed to be committed under this section in the following cases, that is to say —

- (a) where any matter or ingredient not injurious to health has been added to any article of food because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the article or to conceal the inferior quality thereof, or
- (b) where any article of food is unavoidably mixed with some extraneous matter in the process of collection or preparation, or
- (c) where a patent has been granted under any law for the time being in force in respect of any article of food, and the article is sold in the state required by the specification of the patent

(2) In any prosecution under this section it shall be no defence to allege that the vendor or manufacturer was ignorant of the nature, substance or quality of the article sold, exposed for sale or manufactured for sale, by him

(Chapter II.—General Provisions.—Sec. 6.)

(5) In any prosecution under this section the Court shall, unless and until the contrary is proved, presume that any article of food found in the possession of a person who is in the habit of manufacturing like articles for sale has been manufactured for sale by such person.

6. (1) No person shall, directly or indirectly, himself or by any other person on his behalf, sell, expose for sale, or manufacture or store for sale, any of the following articles, namely :—

(a) milk (other than condensed, sterilized or desiccated milk in hermetically closed receptacles),

(b) butter,

(c) ghee,

(d) wheat flour,

(e) mustard oil, and

(f) any other article of food which may be notified by the Local Government in this behalf,

unless the following conditions are fulfilled, namely :—

(i) in the case of milk (other than condensed, sterilized or desiccated milk in hermetically closed receptacles), the animal from which the milk is derived shall be definitely stated in such manner as the local authority may, by general or special order, require, and the article sold, exposed for sale or stored for sale, as the case may be, shall be the natural secretion from the udder of such animal, from which no ingredient has been extracted and to which no water or other substance (including any preservative) has been added, and shall not contain a less proportion of non-fatty solids and of fat than such as the Local Government may prescribe;

(ii) in the case of butter, it shall be exclusively derived from milk or cream (other than condensed, sterilized or desiccated milk or cream), or both, with or without salt or other preservative, and with or without the

or 1919.]

(Chapter II—General Provisions—Sec 6)

addition of colouring matter, such preservative or colouring matter being of such a nature and in such quantity as not to render the article injurious to health, and shall not contain a greater proportion of water than may be prescribed by the Local Government in this behalf,

- (iii) in the case of ghee it shall contain only substances, other than curds, which are derived exclusively from the milk of cows or of buffaloes, and shall fulfil such conditions as may be prescribed by the Local Government,
- (iv) in the case of wheat flour it shall not contain any substance which is not derived exclusively from wheat,
- (v) in the case of mustard oil, it shall be derived exclusively from mustard seed, and
- (vi) in the case of any food notified by the Local Government under clause (f) it shall fulfil such conditions as may be prescribed by the Local Government in regard to such food

(2) No person shall, directly or indirectly, himself or by any other person on his behalf, sell, expose for sale, or manufacture or store for sale anything which is similar to any of the articles specified in clauses (a), (b), (c), (d) and (e) of sub-section (1) or to any article notified by the Local Government under clause (f) of that sub-section, under a name which in any way resembles the name of such article

(3) In any prosecution under this section it shall be no defence to allege that the vendor, manufacturer or store was ignorant of the nature, substance or quality of the article sold, exposed for sale, or manufactured or stored for sale, by him

(4) In any prosecution under this section the Court shall, unless and until the contrary is proved, presume that any of the articles specified in clauses (a), (b), (c), (d) and (e) of sub-section (1) or any article notified by the Local Government under clause (f) of that sub-section found in the possession of a person who is in the habit of manufacturing or storing like articles for sale, has been manufactured or stored for sale by such person

(Chapter II.—General Provisions—Secs. 7—10)

Prohibition of adulterants in places where ghee, wheat flour, etc., are manufactured.

7. (1) No person shall keep or permit to be kept in any manufactory, shop or place, in which butter, ghee, wheat flour, mustard oil or any article notified by the Local Government under clause (f) of subsection (1) of section 6 is manufactured, any substance intended to be used for the adulteration of such butter, ghee, wheat flour, mustard oil or other article.

(2) If any article capable of being so used is found in such manufactory, shop or place, the Court shall, unless and until the contrary is proved, presume in any prosecution under this section that it is intended to be used for the purposes of adulteration.

Receptacles for separated or skimmed condensed milk to be marked.

8. No person shall sell or expose for sale any tin or other receptacle containing condensed milk which has been separated or skimmed, unless such tin or receptacle bears a label on which and on its wrapper (if any) it is clearly indicated, both in English and in Bengali, that the milk has been skimmed and is not suitable for feeding infants under one year of age.

Analysis of food.

Power of purchaser to have article of food analysed.

9. Any purchaser of an article of food shall be entitled on payment of such fee as the Local Government may prescribe, to have such article analysed by the public analyst appointed for the area within which such article is purchased and to receive from him a certificate, in the form prescribed in the Schedule to this Act, of the result of his analysis.

Compulsory sale of food, etc., for purpose of analysis.

10. (1) Any person duly authorised by the Local Government or by any local authority empowered by the Local Government in this behalf, may require, on tendering the price for it, the sale to him during the process of manufacture, for the purpose of analysis, of such quantity of—

(i) any food, or

(ii) any ingredients used in the manufacture of food,

as is reasonably requisite for division and disposal under section 11; and any person in possession of the said food or ingredients shall be bound to sell such quantity.

of 1919.]

(Chapter II—General Provisions—Sec. 11.)

(2) Any person duly authorised by the Local Government or by any local authority empowered by the Local Government in this behalf, may also require the surrender to himself, for the purpose of analysis, of such quantity as is reasonably requisite for division and disposal under section 11, of any food which for the purpose of sale is—

(a) in course of transit in any local area, or

(b) stored in any place in the said local area,

and any person in possession of the said food shall be bound to surrender such quantity

Provided that in every such case the price of the food so surrendered shall be payable from such fund as the Local Government may prescribe to the owner of the food, if claimed by such owner within one month from the date of the said surrender.

(3) Any person duly authorised by the Local Government or by any local authority empowered by the Local Government in this behalf, may also require, by tender of the price, the sale to him, for the purpose of analysis, of such quantity of any food exposed or intended for sale, as is reasonably requisite for division or disposal under section 11; and any person in possession of or exposing the same for sale shall be bound to sell such quantity.

11. (1) Any purchaser who wishes to have an article of food analysed under section 9, and any person who purchases, for the purpose of analysis, a sample of food under section 10, sub-section (1) or sub-section (3), shall, after the purchase has been completed, forthwith notify to the seller, or his agent selling the article, his intention to have the same analysed, and shall divide the article into three parts, to be then and there separated, and each put to be marked and sealed or fastened up in any manner which its nature will permit

Procedure for
analysis of food

(2) The person purchasing the article or sample shall deliver one of the said parts to the seller or his agent, and shall retain another part for future comparison, and shall send the remaining part to the public analyst appointed for the area where the article is sold.

(Chapter II.—General Provisions.—Secs. 12, 13.)

(3) When any food is surrendered under section 10, sub-section (2), the person to whom it is surrendered shall forthwith notify to the person in charge of the said food his intention to have the same analysed, and shall thereupon deal with the food so surrendered in the manner provided in sub-sections (1) and (2).

Inspection and seizure of food.

Power to seize
food which is
believed to be
adulterated.

12 (1) Any person duly authorised in this behalf by rule made under this Act may, at any time by day or by night, inspect and examine any food which is being manufactured for sale, or is in course of transit or stored for sale, or is hawked about or exposed for sale, and any utensil or vessel used for preparing, manufacturing or containing any such food; and no person shall offer resistance to, or obstruct, any such inspection or examination.

(2) If the person so authorised has reason to believe any such food to be adulterated, he may seize and remove such food, utensil or vessel in order that the same may be dealt with in accordance with the provisions of section 13; and no person shall offer resistance to, or obstruct, any such seizure or removal.

(3) The person authorised as aforesaid may, instead of carrying away any food, utensil or vessel seized under sub-section (2), leave the same in such safe custody as he thinks fit in order that the same may be dealt with as provided in section 13; and no person shall remove such food, utensil or vessel from such custody or interfere or tamper with the same in any way while so detained.

(4) When any food is seized under sub-section (2), the person seizing it shall separate therefrom such quantity as is reasonably requisite for division and disposal for the purposes of this sub-section, and shall thereupon divide and dispose of such quantity in the manner provided in section 11, sub-sections (1) and (2).

Food, etc.,
seized under
section 12 to be
taken before
Magistrate.

13. (1) Any food, utensil or vessel seized under section 12, sub-section (2), shall, subject to the provisions of sub-sections (3) and (4) of that section, be taken as soon as may be after such seizure, before a Magistrate.

(2) If it appears to the Magistrate that any such food is adulterated, or that any such utensil or vessel

of 1919.]

(Chapter II—General Provisions—Sec 14)

is used for preparing, manufacturing or containing the same, he shall cause the food, utensil or vessel to be forfeited to the local authority for the area in which the seizure has taken place, in order that it may be destroyed or otherwise disposed of by that authority, at the cost of the person in whose possession it was at the time of its seizure, and such cost shall be realized as if it were a fine imposed under this Act

(3) If it appears to the Magistrate that any such food is not adulterated, or that any such utensil or vessel is not used for preparing, manufacturing or containing the same, the person from whose shop or place the food, utensil or vessel was taken shall be entitled to have it restored to him, and it shall be in the discretion of the Magistrate to award to such person from such fund as the Local Government may prescribe in this behalf, such compensation not exceeding the actual loss which he has sustained, as the Magistrate may think proper

Miscellaneous

14. (1) Every public analyst to whom any article of food has been submitted for analysis under this Act, shall deliver to the person so submitting it a certificate in the form prescribed in the Schedule to this Act, specifying the result of his analysis and shall send a copy of the same to the local authority concerned

Duty of public analyst to supply certificate of analysis

(2) Any document purporting to be such certificate signed by a public analyst shall be sufficient evidence in any inquiry, trial or proceeding under this Act of the result of such analysis

Provided that any Court before which a case may be pending under this Act, whether exercising original, appellate or revisional jurisdiction, may, of its own motion, or at the request either of the accused or the complainant cause any article of food to be sent for analysis to the Sanitary Commissioner for Bengal, or any other officer whom the Local Government may appoint in this behalf, who shall thereupon analyse the same and report the result of such analysis to the said Court, and the said report shall be admissible in evidence in such Court. The expense of such analysis shall be paid by the accused or the complainant as the Court may, by order, direct

*(Chapter II.—General Provisions.—Secs. 15—20.)*Cognizance of
offences.

15. No prosecution for any offence under this Act shall be instituted without the order or consent in writing of the local authority within whose jurisdiction the offence is committed.

Jurisdiction.

16. No Magistrate whose powers are less than those of a Magistrate of the second class shall try any offence under this Act.

Limitation for
prosecutions.

17. No summons shall issue for the attendance of any person accused of an offence under this Act unless the same is applied for within thirty days from the date upon which the order or consent referred to in section 15 shall have been made or given.

Fines, etc., how
to be credited.

18. All fines realised under this Act in any local area to which all or any of the sections of this Act have been extended, and all other sums, if any, which the Local Government may direct to be utilized for the purposes of this Act, shall be credited—

- (i) to the municipal fund, if the local area be within the limits of any Municipality;
- (ii) to the cantonment fund, if the local area be within the limits of any Cantonment;
- (iii) to the district fund, if the local area be within the jurisdiction of any District Board; or
- (iv) to such fund as the Local Government may direct, in the case of any other local area.

Certain persons
to be deemed
public servants.

19. Every person authorised under section 12 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.¹

Power of Local
Government
to make rules.

20. (1) The Local Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Local Government may make rules—

- (a) determining what deficiencies in or additions to any article of food, the normal constituents of which have been declared under

of 1919.]

(Chapter II.—Penalties.—Sec 21.)

section 4, shall raise the presumption that such article is not genuine or is injurious to health;

- (b) prescribing the proportion of non-fatty solids and of fat which must be contained in milk sold, exposed for sale or stored for sale;
- (c) prescribing the maximum proportion of water which may be contained in butter sold, exposed for sale or stored for sale;
- (d) prescribing the conditions to be fulfilled by any food notified by the Local Government under clause (f) of sub-section (1) of section 6;
- (e) providing for the appointment by the Local Government, or by any local authority empowered by the Local Government in this behalf, of persons to perform the duties and to exercise the powers mentioned in section 10, or section 12;
- (f) prescribing the fees to be charged by a public analyst for analysing articles of food under this Act; and
- (g) prescribing the funds to which fines and other sums shall be credited under clause (iv) of section 18.

CHAPTER III.

PENALTIES.

21. Whoever contravenes any of the provisions of this Act mentioned in the first column of the following table shall be punished, for a first offence, with fine to the extent mentioned in that behalf in the third column of the said table, and for a second or subsequent offence, with fine or imprisonment, or with both, to the extent mentioned in the fourth column thereof.

Penalties

Explanation.—The entries in the second column of the following table, headed "Subject", are not intended as definitions of the offences described in the provisions mentioned in the first column, or even

(Chapter III.—Penalties.—Sec. 21.)

as abstracts of those provisions; but are inserted merely as references to the subject thereof:—

1	2	3	4
Provisions of the Act.	Subject.	Maximum fine which may be imposed for a first offence.	Maximum fine or imprisonment, or both, which may be imposed for a second or subsequent offence.
Section 5, sub-section (1).	Sale, etc., of adulterated food ...	Two hundred rupees	One thousand rupees or imprisonment for three months, or both.
Section 5, sub-section (1).	Sale, etc., of milk, butter, ghee, wheat flour, mustard oil or notified article which is not of the prescribed quality.	Ditto ...	Ditto.
Section 6, sub-section (2).	Sale, etc., of articles similar to milk, butter, ghee, etc.	One hundred rupees	Five hundred rupees or imprisonment for three months, or both.
Section 7, sub-section (1)	Keeping or permitting to be kept substance intended to be used for adulteration of butter, ghee, wheat flour, mustard oil, etc.	Ditto ..	Five hundred rupees
Section 8 ...	Sale of a tin or other receptacle containing separated or skimmed condensed milk, not properly labelled.	Two hundred rupees	One thousand rupees.
Section 10, sub-sections (1) (2) and (3).	Refusal to sell or surrender articles of food required for purpose of analysis.	Ditto ...	.....
Section 12, sub-sections (1) and (2).	Offering resistance or obstruction to any authorised person inspecting or examining food or seizing or removing food believed to be adulterated.	Ditto ...	.....
Section 12, sub-section (3).	Removing, interfering or tampering with food, etc., seized and left in custody.	Ditto ...	.....

of 1919.]

(The Schedule)

THE SCHEDULE

FORM OF CERTIFICATE

(See sections 9 and 14)

To¹

I, the undersigned public analyst for the

I, _____, do hereby certify that I received on the _____ day of _____, 19____, from _____ a sample of _____ for analysis (which then weighed _____) and have analyzed the same and declare the result of my analysis to be as follows —

I am of opinion that the same is a sample of

Observations

Signed this day of 19 .

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NOTE.—In the case of a certificate regarding milk, butter or any article liable to decomposition the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

BENGAL ACT NO. VII OF 1919.

[THE CALCUTTA AND SUBURBAN POLICE
(AMENDMENT) ACT, 1919.]¹

[24th September, 1919]

*An Act further to amend the Calcutta Police Act,
1866, and the Calcutta Suburban Police Act, 1866*

Ben Act IV
of 1866
Ben Act II
of 1866

WHEREAS it is expedient further to amend the Calcutta Police Act, 1866², and the Calcutta Suburban Police Act, 1866², in the manner hereinafter appearing.

It is hereby enacted as follows —

1. This Act may be called the Calcutta and Suburban Police (Amendment) Act, 1919

Short title

2. In section 9 of the Calcutta Police Act, 1866 (hereinafter called "the Calcutta Act"), and in section 3 of the Calcutta Suburban Police Act, 1866 (hereinafter called "the Suburban Act"), for the word "approbation" the word "control" shall be substituted.

Amendment of
Ben Act IV of
1866, s. 9 and
Ben Act II of
1866 s. 3

3. (1) Section 10 of the Calcutta Act shall be renumbered section 10, sub-section (1), and section 4 of the Suburban Act shall be renumbered section 4, sub-section (1)

Amendment of
Ben Act IV of
1866, s. 10 and
Ben Act II of
1866 s. 4

(2) To the said section 10 of the Calcutta Act, and to the said section 4 of the Suburban Act, the following shall be added, namely —

"(2) A police-officer shall not by reason of being suspended from office cease to be a police-officer. During the term of such suspension the powers, privileges and duties conferred or imposed upon him as a police-officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline and penalties, and to the same authorities, as if he had not been suspended".

¹For Statement of Objects and Reasons, see *Calcutta Gazette* 1919, Pt. IV, p. 158 and for Proceedings in Council, see *ibid.*, Pt. IV, pp. 931 1001 and 1131 1132, and 1911 1912

²Bengal Code, Vol. II,

BENGAL ACT NO. I OF 1920.

THE BENGAL CRUELTY TO ANIMALS ACT, 1920.

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9. Presumptions as to possession of the skin of a goat.
10. Penalty for employing animals unfit for labour.
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24. Detention and cost of treatment of animals at infirmaries.
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26. Arrest of offenders.
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30. Delegation of powers.
31. Appointments made by local authority.
32. Limitation of time for prosecutions.
33. Persons appointed under section 15, 16, 18 or 21 to be public servants.
34. Indemnity.
35. Power of local authority to pay certain expenses.
36. Effect when Act is extended outside Calcutta.

BENGAL ACT No. I OF 1920.

(THE BENGAL CRUELTY TO ANIMALS
ACT, 1920.)¹

[25th February, 1920.]

*An Act to consolidate and amend the law relating
to the prevention of cruelty to animals in Bengal*

WHEREAS it is expedient to consolidate and amend
the law relating to the prevention of cruelty to
animals in Bengal ;

It is hereby enacted as follows —

Preliminary.

1. (1) This Act may be called the Bengal Cruelty
to animals Act, 1920. Short title, com-
mencement and
extent.

(2) It shall come into force on such date as the
Local Government may, by notification, direct

(3) Except as otherwise hereinafter provided, this
Act shall extend only to Calcutta; but it may be
extended by the Local Government, by notification,
to any other town or place.

2. (1) The following enactments, namely —

Repeal

(a) the Bengal Cruelty to Animals Act, 1869 ;

(b) the Bengal Cruelty to Animals (Arrest) Act,
1869 ; and

(c) the Bengal Cruelty to Animals Act, 1900,

shall be deemed to be repealed—

(i) in Calcutta, from the date of the commence-
ment of this Act, and

(ii) in any other town or place to which this Act
may hereafter be extended under section 1,
sub-section (3), from the date of such exten-
sion.

¹ For Statement of Objects and Reasons, see *Calcutta Gazette*, 1919 Pt. IV,
p. 169 ; and for Proceedings in Council see *ibid* Pt. IV A, pp. 1131 1132, and p. 1309
and pp. 1415 1416, and see *Calcutta Gazette*, 1920 Pt. IV A, pp. 49-55

SECTION.

18. Unfit animal to be taken to Veterinary Inspector.
19. Excess load to be treated as unclaimed property in certain circumstances.
20. Disposal of sale-proceeds.
21. Production of animal for examination by Veterinary Inspector.
22. Examination of animals by Veterinary Inspector.
23. Power of Magistrate to send animal to infirmary.
24. Detention and cost of treatment of animals at infirmaries.
25. Destruction of suffering or unfit animals.

Procedure.

26. Arrest of offenders.
27. Special power of search and seizure in respect of certain offences.
28. Search warrants.

Rules.

29. Power of Local Government to make rules.

Miscellaneous.

30. Delegation of powers.
31. Appointments made by local authority.
32. Limitation of time for prosecutions.
33. Persons appointed under section 15, 16, 18 or 21 to be public servants.
34. Indemnity.
35. Power of local authority to pay certain expenses.
36. Effect when Act is extended outside Calcutta.

BENGAL ACT No. 1 OF 1920.

(THE BENGAL CRUELTY TO ANIMALS ACT, 1920.)¹

[25th February, 1920.]

An Act to consolidate and amend the law relating to the prevention of cruelty to animals in Bengal.

WHEREAS it is expedient to consolidate and amend the law relating to the prevention of cruelty to animals in Bengal ;

It is hereby enacted as follows :—

Preliminary.

1. (1) This Act may be called the Bengal Cruelty to animals Act, 1920. Short title, commencement and extent.

(2) It shall come into force on such date as the Local Government may, by notification, direct.

(3) Except as otherwise hereinafter provided, this Act shall extend only to Calcutta; but it may be extended by the Local Government, by notification, to any other town or place.

2. (1) The following enactments, namely :—

Repeal

(a) the Bengal Cruelty to Animals Act, 1869 ;

(b) the Bengal Cruelty to Animals (Arrest) Act, 1869 ; and

(c) the Bengal Cruelty to Animals Act, 1900,

shall be deemed to be repealed—

(i) in Calcutta, from the date of the commencement of this Act, and

(ii) in any other town or place to which this Act may hereafter be extended under section 1, sub-section (3), from the date of such extension.

¹ For Statement of Objects and Reasons, see *Calcutta Gazette*, 1919, Pt IV, p. 163 ; and for Proceedings in Council, see *ibid*, Pt IV A, pp. 1131 1132, and p. 132 ; and pp 1113 1414, and see *Calcutta Gazette*, 1920 Pt IV A, pp 44—55

[Ben. Act I

(Preliminary.—Offences.—Secs. 3, 4.)

(2) Such repeal shall not affect the validity of anything done or suffered, or of any obligation or liability which may have accrued, under any of the said Acts; and all penalties incurred and other things duly done under any of the said Acts shall, so far as they are consistent with this Act, be deemed to have been respectively incurred or done hereunder.

(3) All proceedings pending under any of the said Acts, in Calcutta or in any other town or place, at the date when this Act comes into operation therein, shall be deemed to have been commenced under this Act.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context.—

(1) “animal” means any domestic or captured animal;

(2) “Calcutta” means the area described in Schedule I to the Calcutta Municipal Act, 1899¹;

Ben. Act III
of 1899.

(3) “the Corporation” means the Corporation of Calcutta; and

(4) “notification” means a notification published in the *Calcutta Gazette*.

Offences.

4. If any person—

(a) overdrives, cruelly or unnecessarily beats, or otherwise ill-treats any animal, or

(b) binds, keeps or carries any animal in such a manner or position as to subject the animal to unnecessary pain or suffering, or

(c) offers, exposes or has in his possession for sale any live animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill-treatment, or any dead animal which he has reason to believe to have been killed in an unnecessarily cruel manner,

he shall be punished for every such offence with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

¹ Bengal Act III of 1899 has been repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben. Act III of 1923), *post* p. 425.

Penalty for
cruelty to animals
and for sale of
animals killed
with unnecessary
cruelty.

of 1920.]

(Offences—Secs 5-8.)

5. If any person overloads any animal he shall be punished with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both, and

Penalty for overloading animals

(1) if the owner of that animal, and

(2) if any person who, as a trader, carrier or contractor, or who, in virtue of his employment by a trader, carrier or contractor, is in possession of that animal or in control over the loading of it,

permits such overloading, he shall be punished with fine which may extend to one hundred rupees

Explanation—For the purposes of this section an owner or other person referred to in clauses (1) and (2) above shall be deemed to have permitted overloading if he shall have failed to exercise reasonable care and supervision in respect of the protection of the animal therefrom

6. If any person performs upon any cow or other milch animal the operation called *phuka* he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both, and the owner of the cow or other milch animal and any person in possession of or control over it shall be liable to the same punishment

Penalty for practising *phuka*

7. If any person kills any animal in an unnecessarily cruel manner he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both

Penalty for killing animals with unnecessary cruelty

Provided that nothing in this section shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class, or for any *bona fide* scientific purpose or for the preparation of any medicinal drug

8. If any person has in his possession the skin of a goat, and has reason to believe that the goat has been killed in an unnecessarily cruel manner so as to constitute an offence under section 7, he shall

Penalty for being in possession of the skin of a goat killed with unnecessary cruelty

(Offences.—Secs. 9, 10.)

be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both, and the skin shall be confiscated.

Presumptions
as to possession
of the skin of a
goat.

9. (1) If any person is charged with the offence of killing a goat contrary to the provisions of section 7, and it is proved that such person had in his possession, after the offence was alleged to have been committed, the skin of a goat with any part of the skin of the head attached thereto, it shall be presumed, until the contrary be proved, that such goat was killed in an unnecessarily cruel manner.

(2) If any person is charged with an offence against section 8, and it is proved that such person had in his possession, at the time of the alleged offence, the skin of a goat with any part of the skin of the head attached thereto, it shall be presumed, until the contrary be proved, that such goat was killed in an unnecessarily cruel manner, and that the person in possession of such skin had reason so to believe.

Penalty
employing
imals unfit
labour.

10. If any person employs in any work or labour any animal which by reason of any disease, infirmity, wound, sore or other cause is unfit to be so employed, he shall be punished with fine which may extend to one hundred rupees, and

(1) if the owner of that animal, and

(2) if any person who, as a trader, carrier or contractor, or who, in virtue of his employment by a trader, carrier or contractor, is in possession of that animal or in control over the employment of it,

permits such employment, he shall be liable to the same punishment.

Explanation.—For the purposes of this section an owner or other person referred to in clauses (1) and (2) above shall be deemed to have permitted such employment if he shall have failed to exercise reasonable care and supervision in respect of the protection of the animal therefrom.

of 1920.]

(Offences — *Weighbridges and Infirmaries* —
Secs 11-15)

11. If any person—

- (a) incites any animal to fight, or
- (b) baits any animal, or
- (c) aids or abets any one in such incitement or baiting,

Penalty for
baiting animals
or inciting them
to fight

he shall be punished with fine which may extend to fifty rupees

12. If any person wilfully allows any animal of which he is the owner or of which he is in charge to go at large in any public place while the animal is affected with contagious or infectious disease, or without reasonable excuse, allows any diseased or disabled animal of which he is the owner or of which he is in charge to go at large or die in any public place, he shall be punished with fine which may extend to one hundred rupees

Penalty for
allowing diseased
animals to go at
large or to die in
public places

Weighbridges and Infirmaries

13. (1) The Local Government may appoint the places at which weighbridges shall be established for the detection of cases of overloading of animals, and may also declare, by notification, the limits of the areas for which such weighbridges are established

Weighbridges

(2) The Local Government may erect weighbridges at the place so appointed, and may acquire, by purchase or otherwise, existing weighbridges erected by any person and maintain them for the purposes of sub-section (1)

14. The Local Government may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against this Act are believed to have been committed.

Infirmaries

15. The Local Government may appoint such persons as they think fit,—

- (a) to be Veterinary Inspectors for carrying into effect the provisions of this Act, and may declare the areas within which such officers shall exercise their powers under this Act and the areas of which they shall be in charge;
- (b) to be weighbridge-officers, to have charge of any weighbridge or weighbridges established under section 13

Power of Local
Government to
appoint Veteri-
nary Inspectors
and weighbridge
officers

(Weighbridges and Infirmaries.—Secs. 16-19.)

Animal, etc., to be taken to weighbridge in case of overloading.

16. Within the limits of any area for which a weighbridge has been established under section 13, any police-officer, or any other person duly authorized by the Local Government in this behalf, who has reason to believe that an offence against section 5 is being committed in respect of any animal, shall seize and take it, together with its load and the person in charge of the animal, to such weighbridge, and shall cause the load to be weighed on the weighbridge in the presence of such person.

Excess load to be removed in cases of overloading.

17. (1) If the weighbridge-officer is not satisfied that an offence against section 5 has been committed, he shall inform the police-officer or person who seized the animal accordingly, and that officer or person shall forthwith release the animal and load.

(2) If the weighbridge-officer is satisfied that an offence against section 5 has been committed, he shall cause the excess load to be removed.

Unfit animal to be taken to Veterinary Inspector.

18. Any police-officer, or any other person duly authorized by the Local Government in this behalf, who has reason to believe that an offence against section 10 is being committed in respect of any animal, shall seize and take it, together with its load, if any, and the person in charge of the animal, to the weighbridge, if any, appointed for the area, within which such seizure is made, or, in the case of there being no weighbridge appointed for the area, to the nearest police-station, and shall remove the load forthwith and report the fact of such seizure to the Veterinary Inspector in charge of that area.

Excess load to be treated as unclaimed property in certain circumstances.

19. (1) Any excess load removed from an animal under section 17, sub-section (2), and any load which was being carried by an animal seized under section 18, and taken to the weighbridge, shall be kept by the weighbridge-officer, at the risk of the owner of such load, at the weighbridge, or at any other place appointed by the Local Government for this purpose, and, if not removed by the owner within forty-eight hours, it shall be made over by the weighbridge-officer to the police and removed to the nearest police-station.

(2) Any load which was being carried by an animal seized under section 18 and taken to a police-station, shall be kept by the officer in charge of the police-station, at the police-station, or at any other

ACT, 1920.

of 1920.]

(Weighbridges and Infirmarys—Secs 20, 21)

place appointed by the Local Government for this purpose. The said load shall be kept during the first forty-eight hours of such detention at the risk of the owner thereof and he may remove the same during that period.

(3) The officer in charge of the police-station shall—

(a) in the case of any load removed to the police-station under sub-section (1) and

(b) in the case of any load referred to in sub-section (2), if not removed by the owner within forty-eight hours,

enter, in a register to be kept for the purpose, such particulars of the load as may be prescribed by rules made under section 29, and the load shall thereafter be returned to the person who proves to the satisfaction of the Commissioner of Police that the same belongs to him, on payment of all costs incurred in the removal and detention of such load.

Provided that if the load, or any part thereof, consists of articles which are subject to speedy and natural decay, or consists of livestock, that load, or part thereof, may forthwith be sold or otherwise disposed of under the orders of the Commissioner of Police in accordance with rules made under section 29, and the sale-proceeds, after deducting therefrom all expenses incurred in the removal, detention and sale of the entire load, shall be made over to the owner, on proof of his ownership, within six months from the date of entry in the register.

20. If within six months from the date of entry in the register no person satisfies the Commissioner of Police that he is the owner of the load, the Commissioner may cause it to be sold or otherwise disposed of in accordance with rules made under section 29, and the proceeds of the sale under this section, or of the sale under the proviso to sub-section (3) of section 19, after deducting therefrom all expenses, shall be applied in such manner as the Local Government may prescribe by rules made under section 29.

21. (1) Any police officer, or any other person duly authorized by the Local Government in this behalf, who has reason to believe that an offence against this Act has been or is being committed in respect of any

Disposal of
sale-proceeds

Production of
animal for exami-
nation by
Veterinary Ins-
pector

(Weighbridges and Infirmaries.—Secs. 22-24.)

animal, may, if the circumstances so require, seize the animal and produce the same for examination by the Veterinary Inspector in charge of the area in which the animal is seized.

(2) The police-officer or person who seizes any animal under sub-section (1) may require the person in charge of the animal to accompany it to the place of examination.

Examination of
animals by Veteri-
nary Inspector

22. (1) For the purposes of the examination of an animal sent to a Veterinary Inspector in accordance with the provisions of section 21, he may submit the animal to any test which the Local Government may prescribe by rules made under section 29.

(2) If, on such examination, the Veterinary Inspector is of opinion that the animal is unfit to be employed on the work or labour on which it was employed at the time of its seizure, he shall either send the animal for treatment and care to an infirmary appointed under section 14, and inform the owner of the animal of his having done so, or (if he considers that a prosecution is necessary, or if the owner of the animal so elects) direct the prosecution of the offender and produce the animal before the Magistrate.

Power of Magis-
trate to send
animal to
infirmary.

23. The Magistrate before whom a prosecution for any offence under this Act has been instituted may, if he thinks fit, direct that the animal, in respect of which the offence is alleged or proved to have been committed, shall be sent for treatment and care to an infirmary appointed under section 14.

Detention and
cost of treatment
of animals at
infirmaries.

24. (1) When any animal has been sent to an infirmary in accordance with the provisions of section 22, sub-section (2), or of section 23, it shall be detained there until, in the opinion of the officer in charge of the infirmary, it is cured, or again fit for the work or labour on which it is the intention of the owner to employ it.

(2) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal, according to such scale of rates as the Local Government may prescribe.

of 1920.]

(Weighbridges and Infirmarys —Ser 25)

(3) If the owner refuses or neglects to pay such cost, or to remove the animal within such time as the officer in charge of the infirmary may prescribe, that officer may direct that the animal be sold and the proceeds of the sale be applied to the payment of such cost

(4) The surplus, if any, of the proceeds of the sale shall, on application to be made by the owner within two months after the date of the sale, be paid to him, but the owner shall not be liable to make any payment in excess of the proceeds of the sale

(5) If no application is made by the owner for the surplus sale-proceeds within the period prescribed under sub-section (4), these proceeds shall be applied in such manner as the Local Government may prescribe by rules made under section 29

(6) If an animal cannot be sold under sub-section (3) the officer in charge of the infirmary may dispose of it in such manner as the Local Government may prescribe by rules made under section 29.

25. (1) When any Magistrate, the Commissioner of Police, or any Deputy Commissioner of Police has reason to believe that an offence against this Act has been committed in respect of any animal, the Magistrate, Commissioner of Police or Deputy Commissioner of Police may direct the immediate destruction of the animal, if, in his opinion, its physical condition is such as to render such a direction proper.

Destruction of
suffering or unfit
animals

(2) When any animal is sent to an infirmary in accordance with the provisions of section 22 sub-section (2), or of section 23, the officer in charge of the infirmary may direct the immediate destruction of the animal, if, in his opinion, its physical condition is such as to render such direction proper, or if he considers it to be permanently unfit for work by reason of old age or some incurable disease

Provided that no order directing destruction shall be made in respect of any bull, bullock or cow which is unfit for work by reason only of old age

(3) Any police-officer who finds any animal diseased, or so severely injured, or in such a physical condition, that it cannot without cruelty be removed

*(Weighbridges and Infirmaries.—Procedure—
Secs. 26, 27.)*

shall, if the owner is absent or refuses to consent to the destruction of the animal, at once summon the Veterinary Inspector in charge of the area in which the animal is found and, if the Veterinary Inspector certifies that the animal is mortally injured, or so severely injured, or so diseased, or in such a physical condition, that it is cruel to keep it alive, the police-officer may, without the consent of the owner, kill the animal or cause it to be killed.

Procedure.

Arrest
offenders.

of **26.** (1) Any police-officer may arrest without a warrant any person committing in his view any offence against this Act, or any person against whom he has received credible information of having committed an offence against this Act, if the name and address of the accused person is unknown to the officer, and if such person, on demand, declines to give his name and address or gives a name and address which such officer has reason to believe to be false.

(2) When the true name and address of a person arrested under sub-section (1) have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

(3) If the true name and address of such person is not ascertained within twenty-four hours from the time of arrest, or if he fails to execute the bond, or if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

Special power
of search and
seizure in respect
of certain offen-
ces.

27. If a police-officer, not below the rank of Sub-Inspector, has reason to believe that an offence against section 7 in respect of a goat is being or is about to be, or has been, committed in any place, or that any person has in his possession the skin of a goat with any part of the skin of the head attached thereto, he may enter and search such place or any place in which he has reason to believe any such skin to be, and may seize any such skin and any article or thing used or intended to be used in the commission of such offence.

of 1920.]

(Procedure—Rules—Secs 28, 29)

28. (1) If a Presidency Magistrate, a Magistrate of the first class, the Commissioner of Police, or a Deputy Commissioner of Police, upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against section 6, section 7 or section 10 is being or is about to be, or has been, committed in any place, he may, at any time by day or by night without notice, either himself enter and search, or by his warrant, authorize any police-officer above the rank of a constable to enter and search, the place Search warrants

(2) The provisions of the Code of Criminal Procedure, 1898¹, relating to searches under that Code shall, so far as those provisions can be made applicable, apply to a search made under sub-section (1) or under section 27

Rules

29. (1) the Local Government may, from time to time, make rules² to carry out the purposes of this Act Power of Local Government to make rules

(2) In particular and without prejudice to the generality of the foregoing power, the Local Government may make rules—

- (a) prescribing the maximum weight of the loads to be carried on or drawn by animals;
- (b) for preventing the overcrowding of animals,
- (c) for regulating the use of tests and the manner of examination of animals;
- (d) prescribing the qualifications of persons to be appointed to be Veterinary Inspectors and weighbridge-officers;
- (e) prescribing the procedure to be followed after removal of a load under section 17, sub-section (2), or under section 18;
- (f) prescribing the particulars to be entered in the register maintained under section 19, sub-section (3);
- (g) prescribing such other forms or registers as may be required for carrying out the purposes of this Act;

¹ General Acts, Vol V

² For rules under this section, see the Bengal Local Statutory Rules and Orders

[Ben. Act 1

(Rules.—Miscellaneous.—Secs. 30-34.)

- (h) for carrying out the provisions of the proviso to sub-section (3) of section 19 and of section 20 in regard to the disposal of loads;
- (i) prescribing the manner in which fines realized under this Act and sale-proceeds realized under section 20 and section 24, sub-section (5), shall be applied;
- (j) for carrying out the provisions of section 24, sub-section (6), in regard to the disposal of animals; and
- (k) for regulating the destruction of animals under section 25.

*Miscellaneous.*Delegation of
powers.

30. The Local Government may delegate, under such restrictions as they consider fit, any of the powers conferred upon them by sections 13, 14, 15, 16, 18, 19, 21 and 24, sub-section (2), of this Act to any person or local authority.

Appointments
made by local
authority.

31. Every appointment made by a local authority under section 15, in exercise of the power delegated to it under section 30, shall be deemed to be an appointment made under the Act by which such local authority is constituted.

Limitation of
time for prosecu-
tions.

32. A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of such offence.

Persons appoin-
ted under section
15, 16, 18 or 21 to
be public servants.

33. Every person appointed under section 15, 16, 18 or 21 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.¹

Act XLV of
1860.

Indemnity.

34. No suit, prosecution or other legal proceeding shall lie against any person who is, or who has been declared to be, a public servant within the meaning of section 21 of the Indian Penal Code¹ for anything which is, in good faith, done or intended to be done under this Act.

¹ General Acts, Vol. I.

of 1920.]

(Miscellaneous—Secs 35, 36.)

35. Notwithstanding anything contained in the Calcutta Municipal Act 1899,¹ the Bengal Municipal Act, 1884, or the Bengal Local Self-Government Act of 1885 the Corporation, the Commissioners of a Municipality or the District Board may provide from the funds at their disposal such sums as may be necessary for paying the expenses incidental to the exercise of any of the powers delegated to them under section 30

Power of local authority to pay certain expenses

36. Whenever this Act is extended to any town or place outside Calcutta, under section 1, sub-section (3), the Local Government may, by notification, appoint persons, either by name or by official designation, to exercise and perform in such town or place the same powers and duties as are conferred or imposed by this Act on the Commissioner of Police

Effect when Act is extended outside Calcutta

¹Bengal Act III of 1899 has been repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben Act III of 1923) *post*, p. 415

BENGAL ACT No. II OF 1920.

THE EASTERN FRONTIER RIFLES (BENGAL BATTALION) ACT, 1920.

CONTENTS

SECTION

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- 2 Repeal
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- 4 Appointment and discharge
- 5 Classes and rank of riflemen
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- 10 Powers of Commandants and Assistant Commandants for inquiring into offences under this and other Acts
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THE SCHEDULE

BENGAL ACT No. II OF 1920.

[THE EASTERN FRONTIER RIFLES (BENGAL BATTALION) ACT, 1920.]¹

[31st March, 1920]

An Act to amend the law relating to the regulation of the Eastern Frontier Rifles (Bengal Battalion)

WHEREAS it is expedient to amend the law relating to the maintenance of discipline among riflemen,

And whereas the previous sanction of the Governor General has been obtained under section 79,² sub-section (2), of the Government of India Act, 1915, to the passing of this Act,

It is hereby enacted as follows —

1. (1) This Act may be called the Eastern Frontier Rifles (Bengal Battalion) Act, 1920; Short title, local extent and commencement

(2) It extends to the whole of Bengal; and

(3) It shall come into force on such day³ as the Local Government may, by notification in the *Calcutta Gazette*, direct

2. The Eastern Bengal and Assam Military Police Act, 1912, is hereby repealed Repeal

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions

(1) "active service" means service at outposts or against hostile tribes or other persons in the field;

(2) "Commandant" or "Assistant Commandant" means a person appointed by the Local Government to be a Commandant or an Assistant Commandant of the Eastern Frontier Rifles (Bengal Battalion), hereinafter referred to as the battalion;

(3) "District Magistrate" includes a Deputy Commissioner and the Superintendent of the Chittagong Hill Tracts;

¹ For Statement of Objects and Reasons see "and for Proceedings" in

see *Calcutta Gazette*, 1920

² Section 79 of the

Sch. II of the Government of India Act, 1915 (No. 10 of 1915, G.O. 101)

³ The 1st May, 1920, see notification No. 1918 P. J., dated the 30th April, 1920 *Calcutta Gazette*, 1920, Pt. I, p. 878

of 1920.]

(Sec 6)

6. A rifleman who—

Heinous offence

- (a) begins, excites, causes or joins in any mutiny or sedition, or, being present at any mutiny or sedition, does not use his utmost endeavours to suppress it, or, knowing or having reason to believe in the existence, of any mutiny or sedition does not without delay give information thereof to his Commanding or other superior officer, or
- (b) uses or attempts to use criminal force to, or commits an assault on, his superior officer, knowing or having reason to believe him to be such, whether on or off duty or
- (c) shamefully abandons or delivers up any garrison, fortress, post or guard which is committed to his charge or which it is his duty to defend, or
- (d) in the presence of an enemy or of any person in arms against whom it is his duty to act, shamefully eludes away his arms or his ammunition or intentionally uses words or any other means to induce any other rifleman to abstain from acting against the enemy, or any such person or to discourage such officer from acting against the enemy or such person, or who otherwise misbehaves, or
- (e) directly or indirectly holds correspondence with, or communicates intelligence to, or assists, or relieves, any enemy or person in arms against the State, or omits to discover immediately to his Commanding or other superior officer any such correspondence or communications coming to his knowledge, or
- (f) directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects any enemy or person in arms against the State or

who while on active service—

- (g) disobeys the lawful command of his superior officer, or
- (h) deserts or attempts to desert the service, or
- (i) being a sentry, sleeps at his post, or quits it without being regularly relieved or without leave, or

(Sec. 7.)

- (j) without authority leaves his Commanding Officer, or his post or party, to go in search of plunder; or
- (k) quits his guard, picquet, party or patrol without being regularly relieved or without leave; or
- (l) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard, or without authority breaks into any house or any other place for plunder, or plunders, destroys or damages any property of any kind; or
- (m) intentionally causes or spreads a false alarm in action, camp, garrison or quarters;

shall be punished with transportation for life, or with imprisonment which may extend to fourteen years to which a fine not exceeding five hundred rupees may be added, or with a fine not exceeding five hundred rupees.

Other offences,
including acts
prejudicial to
good order and
discipline.

7. A rifleman who—

- (a) is in a state of intoxication when on or detailed for any duty, or on parade, or on the line of march; or
- (b) strikes, or forces or attempts to force, any sentry; or
- (c) being in command of a guard, picquet or patrol, refuses to receive any prisoner duly committed to his charge, or, whether in such command or not, releases any prisoner without proper authority or negligently suffers any prisoner to escape; or
- (d) being deputed to any guard, picquet or patrol, quits it without being regularly relieved or without leave; or
- (e) being in command of a guard, picquet or patrol, permits gambling or other behaviour prejudicial to good order and discipline; or
- (f) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority; or

of 1920.]

(Sec 7)

- (g) is grossly insubordinate or insolent to his superior officer in the execution of his office, or
- (h) refuses to superintend or assist in the making of any field work or other military work of any description ordered to be made either in quarters or in the field, or
- (i) strikes or otherwise ill-uses any rifleman subordinate to him in rank or position, or
- (j) being in command at any post or on the march and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made as far as possible to the injured person and to report the case to the proper authority, or
- (k) designedly or through neglect injures or loses or fraudulently or without due authority disposes of his arms, clothes, tools, equipment, ammunition, accoutrements or other necessities, or any such articles entrusted to him or belonging to any other person, or
- (l) malingers, feigns or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity, or
- (m) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person, or
- (n) commits extortion, or without proper authority exacts from any person carriage, portage or provisions, or
- (o) designedly or through neglect kills, injures, maims away with, ill-treats or loses his horse, or any animal used in the public service, or

who, while not on active service,—

- (p) disobeys the lawful command of his superior officer, or
- (q) plunders, destroys or damages any property of any kind, or

[Ben. Act II

(Sec. 8.)

(r) being a sentry, sleeps at his post or quits it without being regularly relieved or without leave ; or

(s) deserts or attempts to desert the service ; or

(t) neglects to obey any battalion or other orders, or commits any act or omission prejudicial to good order and discipline, such act or omission not constituting an offence under the Indian Penal Code¹ or any other Act in force in Bengal.

Act XLV of
1860.

shall be punished with imprisonment for a term which may extend to one year, or with a fine not exceeding two hundred rupees, or with both.

Minor offences
and punishments.

8. (1) A District Magistrate or a Commandant, or, subject to the control of the Commandant, an Assistant Commandant, and, subject to the same control, an officer not below the rank of a *Jamadar* commanding a separate detachment or an outpost or in temporary command of the battalion at the head-quarters of a district during the absence of the District Magistrate, Commandant and Assistant Commandant, may, without a formal trial, award to any bugler or *sipahi* who is subject to his authority, any of the following punishments for the commission of any petty offence against discipline, which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to call for a prosecution before a Criminal Court, that is to say—

(a) imprisonment to the extent of seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of pay and allowances during its continuance ;

(b) punishment drill, extra guard, fatigue or other duty, not exceeding thirty days in duration, with or without confinement to lines ;

(c) forfeiture of pay and allowances for a period, not exceeding one month.

(2) Any of these punishments may be awarded separately or in combination with any one or more of the others.

of 1920.]

(Secs 9—12)

9. Any rifleman sentenced under this Act to imprisonment for a period not exceeding three months shall, when he is also dismissed from the police force, be imprisoned in the nearest or such other jail as the Local Government may, by general or special order, direct, but, when he is not also dismissed from that force, he may, if the convicting court or the District Magistrate so directs, be confined in the quarter-guard or such other place as the Comr or Magistrate may consider suitable.

Manner of imprisonment

10. Notwithstanding anything contained in the Police Act, 1861¹, or in any other enactment for the time being in force, the Local Government may invest any Commandant or Assistant Commandant with the powers of a Magistrate of any class for the purpose of inquiring into or trying any offence committed by a rifleman and punishable under the Police Act, 1861,¹ or this Act, and any offence committed by a rifleman against the person or property of another rifleman and punishable under any section of the Indian Penal Code¹ or of any other Act in force in Bengal.

Powers of Commandants and Assistant Commandants for inquiring into offences under this and other Acts

11. A Commandant¹ shall be entitled to all the powers which he has under sections 42 and 43 of the Indian Evidence Act, 1872,² and under any other enactment for the time being in force;

Privileges of Commandants and Assistant Commandants

and shall, subject to such rules as the Local Government may from time to time make in this behalf, exercise all the powers of a District Superintendent of Police within the meaning of the Police Act, 1861.¹

12. The Local Government may, as regards the battalion, make such orders and rules, consistent with this Act, as they think expedient, relative to the several matters respecting which the Inspector-General of Police, with the approval of the Local Government, may, as regards the police force, frame orders and rules under section 12 of the Police Act, 1861.¹

Power of Local Government to make rules

¹General Acts, Vol I
²General Acts, Vol II

[**Bon. Act II of 1920.**]

(The Schedule.)

THE SCHEDULE.

STATEMENT.

(See sections 3 and 4.)

After you have served for three years in the Eastern Frontier Rifles (Bengal Battalion), you may, at any time when not on active service, apply for your discharge, through the officer to whom you may be subordinate, to a Commandant of the battalion, or to the Magistrate of the district in which you may be serving; and you will be granted your discharge after two months from the date of your application, unless your discharge would cause the vacancies in the battalion to exceed one-tenth of the sanctioned strength; in that case you must remain until this objection is waived by competent authority or removed. But when on active service you have no claim to a discharge and you must remain and do your duty until the necessity for retaining you in the battalion ceases, when you may make your application in the manner hereinbefore prescribed. In the event of your re-enlistment after you have been discharged, you will have no claim to reckon for pension or any other purpose your service previous to your discharge.

Signature of officer in acknowledgment of the above having been read to him.	}	A. B.
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Signed in my presence after I had ascertained that A. B. understood the purport of what he signed.	}	C. D.
	}	<i>Magistrate, Commandant or Assistant Com- mandant</i>

BENGAL ACT No. III OF 1920.**THE CALCUTTA RENT ACT, 1920.****CONTENTS.****SECTION.**

1. Short title, extent, commencement, and duration.
2. Definitions.
3. Appointment of Controller.
4. Restriction on raising rents.
5. Increase of rent allowed for improvements.
6. Cases where rent not to be deemed increased.
7. Increase on account of payment of taxes.
8. Previous notice.
9. Fine, or premium not to be charged for grant, renewal or continuance of tenancy.
10. Exception in case of long leases for purposes of development.
11. No order for ejectment to be made if rent paid at allowable rate.
12. Power of Court to rescind order in certain cases.
13. Issue of distress warrants and other processes barred in certain cases.
14. Rent which should not have been paid may be recovered.
15. Duties and powers of the Controller.
16. Power of entry.
17. Power to require information and to summon witnesses.
18. Revision of Controller's order by the President of the Tribunal, or the Civil Court.
19. Penalty for recovering rent in excess of the standard rent.
20. Penalty for disturbance of easements, etc.
21. Fine to be recovered by distraint and sale of movable property.
22. Sanction and limitation for prosecutions.
23. Power to make rules.
24. Procedure in hearing references.
25. Exception of new premises.
26. Corporation of Calcutta, or local authority not to raise assessment.

BENGAL ACT No. III OF 1920.

(THE CALCUTTA RENT ACT, 1920.)¹

[5th May, 1920]

An Act to restrict temporarily the increase of rents in Calcutta

WHEREAS it is expedient to restrict temporarily the increase of rents in Calcutta,

And whereas the previous sanction of the Governor General has been obtained under section 79,² sub-section (2), of the Government of India Act, 1915, to the passing of this Act;

It is hereby enacted as follows —

1. (1) This Act may be called the Calcutta Rent Act, 1920

Short title,
extent, commence-
ment and dura-
tion

(2) It extends to the whole of Calcutta

Provided that the Local Government may by notification exempt from the operation of this Act, or any portion thereof, any such area, or any such class of premises, as may be specified in such notification, and the decision of the Local Government whether any premises come within such class or area shall be final.

(3) The Local Government may, after previous publication, direct by notification that the Act shall come into operation in any other town, or local area in Bengal on such date as may be specified in the notification

(4) The Act shall come into force on such date³ as the Local Government may by notification direct and it shall be in force⁴ [until the end of March 1921]

Provided that the expiration of this Act shall not render recoverable any sum which during the continuance thereof was irrecoverable, or affect the right of a tenant to recover any sum which during the continuance thereof was under the Act recoverable by him

¹ For Statement of Objects and Reasons, see *Calcutta Gazette, Extraordinary*, March 8, 1920 p. 8; and for proceedings in Council, see *Calcutta Gazette*, 1920, Pt. IV A, pp. 218-263, and 294-297, and 473-619

² Section 79 of the Government of India Act, 1915

³ 11 of 1920

⁴ from Act,

(Sec. 2.)

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “Calcutta” means the area described in Schedule I to the Calcutta Municipal Act, 1899¹;

Ben. Act III
of 1899.

(b) “Controller” means the Controller appointed under this Act;

(c) “landlord” means any person for the time being entitled to receive rent in respect of any premises, whether on his own account, or on account, or on behalf, or for the benefit of any other person or as trustee, guardian, or receiver for any other person; it includes a legal representative, as defined in the Code of Civil Procedure, 1908,² a tenant who sublets any premises, every person from time to time deriving title under a landlord, and also includes the Government;

Act V of
1908.

(d) “notification” means a notification published in the *Calcutta Gazette*;

(e) “premises” means any building, or part of a building, or hut let separately for residential, charitable, educational or public purposes, or for the purposes of a shop or an office, including any land appertaining thereto and let therewith;

such expression includes a room or rooms in a hotel, boarding house or lodging house, but does not include a stall let at variable rents at different seasons of the year for the retail sale of goods in a market as defined in section 3(24) of the Calcutta Municipal Act, 1899;¹

Ben. Act III
of 1899.

(f) “standard rent,” in relation to any premises means,—

(i) the rent at which the premises were let on the first day of November, 1918, or, where they were not let on that date, the rent at which they were last let before that date and after the first day of November, 1915, with the addition, in either case, of ten per cent. on such rent;

(ii) in the case of any premises which were or shall be first let after the first day of November, 1918, the rent at which the premises were or may be first let;

(iii) in the cases specified in section 15, the rent fixed by the Controller;

¹ Bengal Act III of 1899 has been repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben. Act III of 1923), *post.* p. 425.

² General Acts, Vol. VI.

of 1920.]

(Secs 3, 4)

(g) "tenant" means any person, by whom or on whose account rent is payable for any premises and includes a legal representative, as defined in the Code of Civil Procedure, 1908,¹ and every person from time to time deriving title under a tenant

3 (1) The Local Government may by notification appoint a Controller for any alien in which this Act is in operation Appointment of Controller

(2) The Controller shall be either—

- (a) a member of the Executive or Judicial Branch of the Imperial or Provincial Civil Service of not less than ten years' standing in such service, or a retired officer of the Government having similar qualifications, or the Chairman of the Corporation of Calcutta, or of the Calcutta Improvement Trust, or
- (b) a barrister, advocate, *wakil* or attorney of the High Court of Calcutta, of not less than ten years' standing, who has practised as such, and has experience of rent values and land acquisition cases in Calcutta

4. (1) Subject to the provisions of this Act, where the rent of any premises has been or is hereafter, during the continuance of this Act, increased so as to exceed the standard rent, the amount of such excess shall, notwithstanding any agreement to the contrary, be irrecoverable Restrict on raising rents

Provided that nothing in sub-section (1) shall apply—

- (i) to any rent which accrued due before the date of the commencement of this Act,
- (ii) to any periodical increment of rent accrued due under any written agreement entered into before the first day of November, 1918,
- (iii) to the rent payable under any lease or any agreement to lease entered into before the date of the commencement of this Act, for a period of five years or upwards or
- (iv) to the rent payable under any lease or agreement to lease for a period of five years or more, provided the terms embodied in such lease or agreement to lease are certified by the Controller to be just and fair

[Ben. Act I

(Secs. 5—8.)

(2) For the purpose of sub-section (1), the rent shall be deemed to have accrued from day to day.

Increase of rent
allowed for im-
provements.

5. Where the landlord has, since the first day of November, 1918, incurred, or during the continuance of this Act incurs, expenditure on the improvement or structural alteration of any premises (not including expenditure on decorations or necessary repairs), he may apply to the Controller to alter the standard rent.

Cases where
rent not to be
deemed increased.

6. (1) Where as the result of any alteration of the terms of the tenancy, the terms, on which any premises are held, are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased within the meaning of this Act, whether the sum payable as rent is increased or not.

(2) Where, as the result of any alteration of the terms of the tenancy, the terms, on which any premises are held, are not on the whole less favourable to the tenant than the previous terms, the rent shall not be deemed to be increased within the meaning of this Act, whether the sum payable as rent is increased or not.

Increase on
account of pay-
ment of taxes.

7. Where the landlord pays any municipal rates, taxes, or cesses in respect of any premises, he may apply to the Controller to increase the standard rent to the extent of the increase in the amount for the time being payable by the landlord in respect of such rates, taxes, or cesses over the amount paid in the period of assessment which included the first day of November, 1918.

Previous notice.

8. (1) Wherever an increase of the rent of any premises is allowable under the provisions of this Act, no such increase shall be recoverable until the expiry of one month after the landlord has served on the tenant a notice in writing of his intention to increase the rent, accompanied by a certificate from the Controller fixing the standard rent.

(2) Where such a notice has been served on any tenant, the increase may be continued without service of any fresh notice on any subsequent tenant.

of 1920.]

(Secs. 9—11)

9. (1) It shall not be lawful for any person in consideration of the grant, renewal, or continuance of a tenancy of any premises, to require the payment of any fine, premium, or any other like sum in addition to the rent

Fine or premium not to be charged for grant, renewal, or continuance of tenancy

(2) Where any such payment has been made after the date of the commencement of this Act, the amount shall be recoverable by the tenant by whom it was made from the landlord, and may, without prejudice to any other method of recovery, be deducted from any rent payable by him to the landlord

Provided that nothing in this section shall affect any such payments made in accordance with an agreement entered into before the fifteenth day of March, 1920

10. Notwithstanding anything contained in section 9, a landlord may receive a premium, or other like sum in addition to the rent in respect of any premises which are let out on a lease for a period of not less than twenty years for the purposes of development either by building or re-building, if the Controller is satisfied that such premises are *bond fide* required for such purposes

Exception in case of long leases for purposes of development

Provided that the rent payable for the premises during the continuance of this Act shall not exceed the standard rent

11. (1) Notwithstanding anything contained in the Transfer of Property Act, 1882,¹ the Presidency Small Cause Courts Act, 1882,¹ or the Indian Contract Act, 1872,² no order or decree for the recovery of possession of any premises shall be made so long as the tenant pays rent to the full extent allowable by this Act, and performs the conditions of the tenancy.

No order for ejectment to be made if rent paid at allowable rate

Provided that nothing in this sub-section shall apply where the tenant has done any act contrary to the provisions of clause (m), clause (o), or clause (p) of section 108 of the Transfer of Property Act, 1882,¹ or has been guilty of conduct which is a nuisance or an annoyance to adjoining or neighbouring occupiers, or where the premises are *bond fide* required by the landlord either for purposes of building or re-building, or

¹ General Acts, Vol III
² General Acts, Vol II

(Section 12.)

for his own occupation, or for the occupation of any person for whose benefit the premises are held, or where the landlord can show any cause which may be deemed satisfactory by the Court.

(2) Where the landlord recovers possession on the ground that the premises are required for his own occupation, or for the occupation of any person for whose benefit the premises are held, the tenant shall have a right of re-entry, if the premises are let to another tenant within six months from the date of recovery of possession.

(3) The fact that the period of the lease has expired, or that the interest of the landlord in the premises has been transferred, shall not of itself be deemed to be a satisfactory cause within the meaning of the proviso to sub-section (1), provided that the tenant is ready and willing to pay rent to the full extent allowable by this Act.

(4) Where a landlord refuses to accept the rent referred to in sub-section (1) offered by a tenant, the tenant may deposit it with the Controller within a fortnight of its becoming due.

(5) No tenant shall be entitled to the benefit of this section in respect of any premises, unless within three months of the date of the commencement of this Act he has paid all arrears of rent due by him in respect of the said premises, and also unless he pays the rent due by him to the full extent allowable by this Act within the time fixed in the contract with his landlord, or, in the absence of any such contract, by the fifteenth day of the month next following that for which the rent is payable.

Power of
Court to rescind
order in certain
cases.

12. Where any order or decree of the kind mentioned in section 11, sub-section (1), has been made on or after the thirtieth day of September, 1919, but not executed before the date of the commencement of this Act, the Court by which the order was made may, if it is of opinion that the order or decree would not have been made if this Act had been in operation at the date of the making of the order, rescind or vary the order in such manner as the Court may think fit for the purpose of giving effect to this Act.

of 1920.]

(Secs. 13—15)

13. No distress warrant shall be issued under Chapter VIII of the Presidency Small Cause Courts Act, 1882¹, and no process under the Code of Civil Procedure, 1908², in execution of a decree passed *ex parte* thereunder, shall be issued, either for the attachment of property, or for the arrest of any tenant, in connection with recovery of rent of any premises situated in any area to which this Act may apply, unless the person applying for execution shall, when making his application, swear or affirm by affidavit or otherwise that none of the rent, in respect of which execution is applied for, is irrecoverable under this Act

Issue of distress warrants and other processes barred in certain cases

14. (1) Where any sum has, after the date of the commencement of this Act, been paid on account of rent, being a sum which is by reason of the provisions of this Act irrecoverable, such sum shall at any time within a period of six months after the date of payment, be recoverable by the tenant by whom it was paid from the landlord who received the payment, and may, without prejudice to any other method of recovery, be deducted by such tenant from any rent payable within six months by him, to such landlord

Rent which should not have been paid may be recovered

(2) In this section the expression landlord includes, in the case of joint family property, the joint family of which the landlord, if deceased, was a member

15. (1) The Controller shall, on application made to him by any landlord or tenant, grant a certificate certifying the standard rent of any premises leased or rented by such landlord or tenant, as the case may be.

Duties and powers of the Controller

(2) The Controller may on application by any tenant or occupant of a room or rooms in a hotel, boarding house, or lodging house fix the rent or charge at such sum as, having regard to the provisions of this Act and the circumstances of the case, including the cost of food, furniture, and service, and the rent or charge paid for such room or rooms on the first day of November, 1918, he deems just

(3) In any of the following cases, the Controller may fix the standard rent at such amount as, having

¹ General Acts, Vol III
² General Acts, Vol VI

of 1920.]

(Secs 16, 17.)

(4) Before exercising any of the powers conferred on him by this Act, the Controller shall give notice of his intention to the landlord and tenant, if any, and shall duly consider any application received by him from any person interested, within such period as shall be specified in the notice.

(5) All orders of the Controller passed under this Act shall be in writing and a certified copy thereof shall be affixed to some conspicuous part of the premises to which it relates or to some conspicuous object near such premises, and a certified copy shall also be delivered to the landlord, or his authorised agent, in such manner as the Local Government may by rule prescribe.

(6) Any person affected by any order of the Controller shall be entitled to be furnished with a copy thereof, duly certified by the Controller to be a correct copy, on payment of such sum as the Local Government may prescribe. Such copy shall be admissible in evidence in any Court of Law to prove the order of the Controller.

16. For the purpose of any inquiries under this Act, the Controller, or any person duly authorised by the Controller in writing either generally or specially in this behalf, may enter any building or land with or without any assistants between the hours of 9 A.M. and 6 P.M.

Power of entry

Provided that no building shall be so entered, without the consent of the occupier, unless twenty-four hours' previous notice in writing has been given.

17. (1) For the purposes of any inquiry under this Act, the Controller may by written order require any person—

Power to
require information
and to
summon witnesses

(a) to furnish him with particulars, in such form, within such time, and at such place, as may be specified in the order, as to the rent at which, and the manner in which, any premises were let in the year 1913, or subsequently, and as to any other matter relevant to the inquiry,

(b) to produce for his inspection such accounts, rent receipts, books or other documents relevant to the inquiry, at such time and at such place, as may be specified in the order.

[Ben. Act III]

(Secs. 18, 19.)

(2) The Controller shall, subject to any rules made under this Act, and in so far as such powers are necessary for carrying out the provisions of this Act, have power to summon and enforce the attendance of witnesses, and to compel the production of documents by the same means and, so far as may be, in the same manner as is provided in the case of a Court by the Code of Civil Procedure, 1908.¹

Act V of 1908.

Revision of
Controller's order
by the President
of the Tribunal,
or the Civil
Court.

18. If the decision of the Controller fixing the standard rent for any premises is questioned, either the landlord, or the tenant may, in respect of premises in Calcutta, apply for revision of such order to the President of the Tribunal appointed under section 72 of the Calcutta Improvement Act, 1911², and, in respect of premises outside Calcutta, to the principal Civil Court of original jurisdiction in the district. A certified copy of the order of the Controller shall be filed with the petition of revision. The petition of revision shall bear a Court-fee stamp of eight annas. Any such petition shall be filed within thirty days from the date of the order passed by the Controller. The time taken in obtaining a certified copy of the order of the Controller shall be excluded in computing the period in which the petition must be filed. The decision of the President of the Tribunal, or of such other Court as aforesaid, shall be final.

Ben. Act V of 1911.

Penalty for
recovering rent
in excess of the
standard rent.

19. (1) Whoever knowingly receives, whether directly or indirectly, on account of the rent of any premises any sum in excess of the standard rent or any fine, premium, or any other like sum in addition to the standard rent, except as provided in section 10, shall, on the complaint of the party aggrieved, be liable, on the first occasion, to a fine which may extend to five hundred rupees, and on a second or subsequent occasion, in regard to the same, or any other premises, to a fine which may extend to one thousand rupees, to be imposed, after summary inquiry, by the President of the Tribunal, or the principal Civil Court, as the case may be.

(2) A person shall be deemed to receive a sum in excess of the standard rent, if he receives any consideration representing a money value in excess of such standard rent.

¹ General Acts, Vol. VI.² Bengal Code, Vol. III.

of 1920.]

(Secs. 20—23.)

20. Whoever, in any case in which an order or decree for the recovery of any premises is prohibited under section 11, without the previous written consent of the Controller, or save for the purpose of effecting repairs or complying with any municipal requisition, wilfully disturbs any easement annexed to any premises, or removes, destroys, or renders unserviceable, anything provided for permanent use therewith, or discontinues any supply or service comprised in such rent, shall, on the complaint of the party aggrieved, be liable, on the first occasion, to a fine which may extend to five hundred rupees, and on a second or subsequent occasion, in regard to the same, or any other premises, to a fine which may extend to one thousand rupees, to be imposed, after summary inquiry, by the President of the Tribunal or the principal Civil Court, as the case may be.

Penalty for disturbance of easements, etc.

21. The fine imposed under section 19, or section 20, shall be levied by the Controller by the distraint and sale of a sufficient portion of the movable property of the person fined in accordance with rules prescribed under section 23.

Fine to be recovered by distraint and sale of movable property.

22. No complaint under this Act shall be brought against any person without the previous sanction of the Controller, or after the expiration of three months from the date of the commission of the acts referred to in sections 19 and 20.

Sanction, and limitation for prosecutions

23. (1) The Local Government may, after previous publication, make rules¹ to carry out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, the Local Government may make rules—

- (a) prescribing the method of publication of a notification under section 1, sub-section (3);
- (b) prescribing the manner of delivery of a certified copy of an order made by the Controller under this Act;
- (c) regulating the procedure to be followed in inquiries by the Controller, the President of the Tribunal and the principal Civil Court of original jurisdiction in the district, under this Act;

¹ For such rules, see the Bengal Local Statutory Rules and Orders.

BENGAL ACT No. V OF 1920.

THE BENGAL ALLUVIAL LANDS ACT, 1920.

CONTENTS.

PREAMBLE.

SECTION.

1. Short title and local extent.
2. Definitions.
3. Power of Collector to attach alluvial land.
4. Collector to cause survey to be made.
5. Reference to Civil Court.
6. Taking possession of land by person entitled to it.
7. Costs under sections 3 and 4 (1).
8. Rules.
9. Indemnity.
10. Bar to institution of proceedings under section 145 of the Code of Criminal Procedure.

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THE BENGAL ALLUVIAL LANDS ACT,
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PREAMBLE.

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BENGAL ACT No. V OF 1920.
(THE BENGAL ALLUVIAL LANDS
ACT, 1920.)¹

[13th October, 1920.]

An Act to prevent disputes concerning the possession of certain lands in Bengal gained by alluvion, or by dereliction of a river or the sea

WHEREAS it is expedient to make provision for the prevention of disputes concerning the possession of certain lands in Bengal gained by alluvion, or by dereliction of a river or the sea

Preamble

And whereas the previous sanction of the Governor General has been obtained under section 79,² sub-section (2), of the Government of India Act, 1915, to the passing of this Act,

It is hereby enacted as follows —

1. (1) This Act may be called the Bengal Alluvial Lands Act, 1920

Short title and local extent.

(2) It extends to the whole of Bengal

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions

(a) "alluvial land" means land which is gained from a river or the sea in any of the ways referred to in the Bengal Alluvion and Diluvion Regulation, 1825,³ the Bengal Alluvion and Diluvion Act, 1847,³ or the Bengal Alluvion (Amendment) Act, 1868,⁴ and includes reformatio*n* *in situ*, and

(b) "Collector" means the Collector of district or a subdivisional officer or any other officer not below the rank of a Deputy Collector exercising the powers of a magistrate of the first class appointed by the Local Government to discharge any of the functions of a Collector under this Act

¹ Reasons, see *Gazette of India* 1920 Pt. IV, sec. 1, Pt. IV, 1, p. 13-157, and p. 14.

² Id. Act 1915 was repealed by Pt. II of Act, 1919 (9 & 10 Gen. V, c. 101)

³ Bengal Code Vol. I
 Bengal Code, Vol. II

of 1920.]

(Secs 5, 6)

5. (1) When the survey and map referred to in section 1, sub-section (1), have been completed the Collector shall as soon as possible pass an order making a reference to the principal Civil Court of original jurisdiction in the district for a decision as to what person has a title to the land, and shall state in such order the names of the parties whom he has reason to believe to be claimants to the said land, the amount of costs incurred by the Collector under section 3, and section 4, sub-section (1), and the value of the land

(2) On receipt of a reference made under sub-section (1), the principal Civil Court of the district may either proceed to determine the matter or may transfer the matter for determination to any other Civil Court subordinate to such Court competent to try or dispose of a suit for the determination of title to the land

The said Court shall issue notices to all the claimants mentioned in the said reference and shall also issue general notices calling upon all other persons claiming interest in the land to appear and file statements of their respective claims. The said Court shall also determine which of the claimants has the right to begin at the hearing of the reference

(3) Save as otherwise provided in this Act a reference made under sub-section (1), shall be deemed to be a suit for all the purposes of the Code of Civil Procedure, 1908, and every decision by a Civil Court under sub-section (2), shall be deemed to be a decree within the meaning of that Code and appealable as such

(4) The said Court may make such order as it shall think fit with regard to the payment of the costs incurred under section 3, section 4, sub-section (1), and incurred up to the final disposal of the reference, including such costs as are payable under the Court-fees Act, 1870, on a plaint in a suit for the determination of title to land

6. Whenever the Court makes an order under section 5, sub-section (2), it shall certify to the Collector its decision, and the Collector shall thereupon put the person entitled in such order to be entitled to the land in possession thereof

Act V of 1920.

Act V of 1908.

Reference
Civil CourtTable
Section of Act 1920

BENGAL ACT No. VI OF 1920.

THE BENGAL AGRICULTURAL AND SANITARY IMPROVEMENT ACT, 1920.

CONTENTS.

SECTION.

Preliminary.

1. Short title, extent and commencement.
2. Definitions.

Application for construction of works and procedure thereon.

3. Procedure by the Collector on receipt of application for the undertaking of a work.
4. Order after inquiry.
5. Engineer to prepare scheme.
6. Publication of scheme.
7. Procedure in the case of minor schemes.
8. Power of Collector to reject, or accept scheme.
9. Procedure in the case of major schemes, Appointment of committee.
10. Committee to consider major schemes.
11. Committee to forward scheme to Local Government for consideration.
12. Order by the Local Government on the scheme.
13. Engineer to execute scheme.
14. Compulsory acquisition of land needed for the purposes of this Act.
15. Deposit, or security for cost of work.
16. Power to enter into, or upon, land forming part of a local area.

Apportionment and recovery of costs.

17. Report by Engineer on completion of work.
18. Procedure on receipt of report.

(Preliminary—Sec. 2.)

(b) includes any officer appointed by the Local Government by general or special order to discharge all or any of the functions of the Collector under this Act ;

(2) the “cost” of a work includes—

(a) the total expenditure incurred by the Engineer for surveys, plans, estimates, valuations of a work, and incidental expenses connected therewith, whether antecedent or subsequent to the adoption of a scheme, and all expenses incurred in its execution ;

(b) the estimated capitalized cost of the maintenance of the work ;

(c) the total expenditure incurred by the Collector in connection with the scheme and work inclusive of any preliminary inquiry, compensation for and cost of any land taken or acquired for the purposes of this Act, the preparation or revision of any record-of-rights and the cost of apportionment and recovery ;

(d) all amounts paid, or estimated as payable, as compensation for damage inflicted in carrying out any scheme or work under this Act ; and

(e) interest on all recoverable deposits or advances made by the Local Government, or by a local authority, or any person, at such rates and from and to such dates as may be prescribed ;

(3) “Engineer” means the District Engineer, or any Engineer, or other person specially appointed by the Local Government in the case of major schemes, or by the Collector in the case of minor schemes, to discharge all or any of the functions of an Engineer under this Act ;

(4) “landlord” means a person immediately under whom a tenant holds and includes a landlord in *khas* possession and also the Government ;

(5) “local area” means the portion of a district or districts to which a scheme under this Act relates, and any municipal area included within such scheme ;

(6) “local authority” means any authority legally entitled to, or entrusted by Government with, the control or management of a municipal, or local fund, and includes a Local Board constituted under the Bengal Local Self-Government Act of 1885 ;¹

of 1920.]

(Application for construction of works and procedure thereon—Sec 3)

(7) "major scheme" means a scheme—

- (i) in which the estimated cost of the work involved exceeds the prescribed amount, or
- (ii) in which more than one independent local authority is concerned or
- (iii) which the Collector has certified should be treated, in such circumstances as may be prescribed, as a major scheme,

(8) "minor scheme" means any scheme other than a major scheme,

(9) "prescribed" means prescribed by rules under this Act,

(10) a "scheme" includes—

- (a) a survey and plans,
- (b) estimates of the cost of the work involved in such scheme,
- (c) a description or map of the local area, and
- (d) a report on the scheme,

(11) "tenant" means a person, whether resident or non-resident in the local area, who holds land or premises for any purposes whatsoever under another person, and is, or but for a special contract would be, liable to pay rent for that land or premises to that person, and includes any rent-free holder or temporary occupant of land or premises

Application for construction of works and procedure thereon.

3 Whenever an application is received by the Collector from a local authority, or local authorities, or any person, or persons, recommending the undertaking of any work for the improvement, or for the prevention of the deterioration, of the agricultural or sanitary condition of any area, or if the Collector is himself of opinion that the undertaking of any such work is necessary, he shall cause such inquiries as he may deem necessary to be made and shall thereafter consult the local authority or local authorities concerned

Procedure by the Collector on receipt of application for the undertaking of a work

Provided that if after such inquiries, the Collector is satisfied that the proposed work will constitute a minor scheme which is mainly agricultural in character, reference to any local authority shall not be necessary but may be made if the Collector deems it desirable.

(Preliminary—Sec. 2.)

(b) includes any officer appointed by the Local Government by general or special order to discharge all or any of the functions of the Collector under this Act;

(2) the “cost” of a work includes—

(a) the total expenditure incurred by the Engineer for surveys, plans, estimates, valuations of a work, and incidental expenses connected therewith, whether antecedent or subsequent to the adoption of a scheme, and all expenses incurred in its execution;

(b) the estimated capitalized cost of the maintenance of the work;

(c) the total expenditure incurred by the Collector in connection with the scheme and work inclusive of any preliminary inquiry, compensation for and cost of any land taken or acquired for the purposes of this Act, the preparation or revision of any record-of-rights and the cost of apportionment and recovery;

(d) all amounts paid, or estimated as payable, as compensation for damage inflicted in carrying out any scheme or work under this Act; and

(e) interest on all recoverable deposits or advances made by the Local Government, or by a local authority, or any person, at such rates and from and to such dates as may be prescribed;

(3) “Engineer” means the District Engineer, or any Engineer, or other person specially appointed by the Local Government in the case of major schemes, or by the Collector in the case of minor schemes, to discharge all or any of the functions of an Engineer under this Act;

(4) “landlord” means a person immediately under whom a tenant holds and includes a landlord in *khas* possession and also the Government;

(5) “local area” means the portion of a district or districts to which a scheme under this Act relates, and any municipal area included within such scheme;

(6) “local authority” means any authority legally entitled to, or entrusted by Government with, the control or management of a municipal, or local fund, and includes a Local Board constituted under the Bengal Local Self-Government Act of 1885;¹

of 1920.]

(Application for construction of works and procedure thereon.—Sec 3)

(7) "major scheme" means a scheme—

- (i) in which the estimated cost of the work involved exceeds the prescribed amount, or
- (ii) in which more than one independent local authority is concerned or
- (iii) which the Collector has certified should be treated, in such circumstances as may be prescribed, as a major scheme,

(8) "minor scheme" means any scheme other than a major scheme,

(9) "prescribed" means prescribed by rules under this Act;

(10) a "scheme" includes—

- (a) a survey and plans,
- (b) estimates of the cost of the work involved in such scheme,
- (c) a description or map of the local area, and
- (d) a report on the scheme,

(11) "tenant" means a person, whether resident or non-resident in the local area, who holds land or premises for any purposes whatsoever under another person, and is, or but for a special contract would be, liable to pay rent for that land or premises to that person, and includes any rent-free holder or temporarily occupant of land or premises

Application for construction of works and procedure thereon.

3 Whenever an application is received by the Collector from a local authority, or local authorities, or any person or persons, recommending the undertaking of any work for the improvement, or for the prevention of the deterioration, of the agricultural or sanitary condition of any area, or if the Collector is himself of opinion that the undertaking of any such work is necessary, he shall cause such inquiries as he may deem necessary to be made and shall thereafter consult the local authority or local authorities concerned

Procedure by the Collector on receipt of application for the undertaking of a work

Provided that if after such inquiries, the Collector is satisfied that the proposed work will constitute a minor scheme which is mainly agricultural in character, reference to any local authority shall not be necessary but may be made if the Collector deems it desirable.

(Application for construction of works and procedure thereon.—Secs. 4—8.)

- Order inquiry** after **4.** (1) On completion of the necessary inquiries and after consultation, when necessary, with the local authority or local authorities, the Collector shall—
 (a) if he considers that the proposed work should not be done, pass an order to that effect; or
 (b) if he considers that the work proposed or modified should be done, take action as hereinafter provided.
 (2) An appeal shall lie to the Commissioner against every order by the Collector under clause (a) of sub-section (1) within thirty days of such order; and the decision of the Commissioner thereon shall be final.
- Engineer to prepare scheme.** **5.** (1) Whenever it has been decided under section 4 to proceed with any work, the Collector shall direct the Engineer to prepare a scheme.
 (2) When the Engineer has prepared any such scheme, he shall forward it to the Collector, who may, subject to such rules as may be prescribed in this behalf, make such modifications therein as he may deem necessary.
- Publication of scheme.** **6.** As soon as possible after the receipt of the scheme, the Collector shall publish a notice in the prescribed manner calling for objections or suggestions thereon by any local authorities, or persons interested, within such time as may be prescribed.
- Procedure in the case of minor schemes.** **7.** In the case of minor schemes, the Collector shall, as soon as possible after the expiry of the period fixed by the notice published under section 6, proceed in the prescribed manner to consider any objections or suggestions received in regard to the scheme.
- Power of Collector to reject, or accept, scheme** **8.** (1) The Collector may—
 (a) reject the scheme referred to in section 7, or
 (b) subject to such rules as may be prescribed in this behalf, accept it with such modifications as he may deem necessary, and shall determine, in the prescribed manner, the method in which, and the conditions subject to which, the cost of the work shall be financed and distributed.
 (2) An appeal shall lie to the Commissioner against every order by the Collector under sub-section (1) within thirty days of such order; and the decision of the Commissioner thereon shall be final.

of 1920.]

(Application for construction of works and procedure thereon.—Secs 9—12)

9. In the case of major schemes, the Collector shall, as soon as possible after the receipt of the scheme, in addition to the publication required by section 6, refer it to the Commissioner and the Commissioner shall forthwith appoint a committee, to be constituted in the prescribed manner, with the Collector as Chairman, representing the local authorities and the land-owning, cultivating and other interests of the area to which the scheme relates

Procedure in case of major schemes.—Appointment of committee

10. (1) On the expiry of the period fixed by the notice published under section 6, the committee shall proceed in the prescribed manner to consider any objections or suggestions in regard to the scheme received by the Collector, and may either accept the scheme with such modifications as it may deem necessary, or reject it

Committee to consider major schemes.

(2) Whenever a scheme has been accepted by the committee, it shall frame proposals, in the prescribed manner, regarding the method in which, and the conditions subject to which, the cost of the work shall be financed and distributed

(3) An appeal shall lie to the Local Government against every order by the committee under sub-section (1) or (2), within sixty days of such order.

(4) It shall be in the discretion of the Local Government, in the case of any scheme rejected by the committee under sub-section (1), of their own motion, to cancel, or modify such order, and in such case the committee shall be required to frame proposals for financing and distributing the cost of the work as sanctioned by the Local Government, in the manner set out in sub-section (2)

11. When proceedings under section 10 have been completed, the committee shall forward the scheme through the Commissioner to the Local Government, together with its proposals for financing and distributing the cost thereof.

Committee to forward scheme to Local Government for consideration

12. The Local Government shall consider the scheme and proposals of the committee, together with any appeals which may have been received under section 10, sub-section (3), and may reject them, or accept them, with such modifications as they may consider necessary, and the order of the Local Government thereon shall be final

Order by the Local Government on the scheme

(Application for construction of works and procedure thereon.—Apportionment and recovery of costs.—Secs. 13—17.)

Engineer to execute scheme.

13. (1) As soon as possible after a scheme has been accepted under section 8, or section 12, the Collector shall direct the Engineer to execute the work.

(2) When the cost or part thereof is to be recovered from the landlords and tenants of the local area, the Collector may direct the preparation, or revision, as the case may be, of a record-of-rights of the local area in accordance with the provisions of Chapter X of the Bengal Tenancy Act, 1885¹ in so far as the same may be applicable. VIII of 1885.

Compulsory acquisition of land needed for the purposes of this Act.

14. The Local Government may, at the request of the Collector, acquire, under the provisions of the Land Acquisition Act, 1894,² any land required for the purposes of this Act. I of 1894.

“Land” in this section has the same meaning as in clause (a) of section 3 of the Land Acquisition Act, 1894.

Deposit, or security for cost of work.

15. (1) An applicant may at any time be required, and, before any action is taken under section 13, shall be required to deposit, or to give security for, the cost of the work, or such portion thereof as may be payable by him; and all proceedings under this Act shall be stayed until such requisition is complied with.

(2) The cost of the work, or any portion thereof may, in any case, be advanced by the Local Government, or by any local authority, or any person.

Power to enter into, or upon, land forming part of a local area.

16. The Engineer, or any other person duly authorized to prepare a scheme, or to execute any work under this Act may himself, or by his agents and workmen, enter into or upon any land forming part of the local area, and carry out such work thereon as may be required.

Apportionment and recovery of costs.

17. On the completion of any work executed under this Act, the Engineer shall forthwith submit to the Collector a report accompanied by—

(a) a statement of the items of the cost of the work referred to in sub-clauses (a), (b) and (d) of clause (2) of section 2; and

(b) a copy of the map prepared in the prescribed manner of the local area benefited by the improvement.

Report by Engineer on completion of work.

¹ Bengal Code, Vol. I.
² General Acts, Vol. IV.

of 1920.]

*(Apportionment and recovery of costs —
Secs 18- 20)*

18. (1) On receipt of the report and other documents required by section 17, the Collector shall—

Procedure on receipt of report

(i) prepare a statement showing the total cost of the work,

(ii) distribute the said cost between—

(a) the applicant,

(b) the Local Government,

(c) the local authorities concerned, and

(d) the landlords and tenants collectively of the local area

in the manner determined under section 8 or 10, and

(iii) apportion the share of such cost recoverable from the landlords or tenants, or both, or different classes thereof, according to such rates as may be determined in the prescribed manner, having regard, so far as practicable, to the degree of benefit derived, or estimated to be derived by the different areas and classes affected by the scheme

(2) The Collector shall publish in the prescribed manner the statement and the particulars referred to in sub-section (1), and a copy of the map submitted under clause (b) of section 17, after such revision as he may deem necessary, and shall send an abstract of the statement and particulars to each local authority concerned.

(3) Any person interested may appeal to the Commissioner within thirty days of such publication against the order of apportionment under clause (iii) of sub-section (1), and the decision of the Commissioner thereon shall be final

19. The Collector shall then determine the amount recoverable from each landlord or tenant and enter such amount in a detailed statement.

Collector to determine amount recoverable and prepare detailed statement

20. (1) On completion of the detailed statement referred to in section 19, the Collector shall publish a copy of the same in the prescribed manner.

Procedure on completion of detailed statement

(2) Any landlord, or tenant within the local area, if he objects to the amount apportioned against him, appeal to the Commissioner within sixty days

(Apportionment and recovery of costs.—Miscellaneous.—Secs. 21—23.)

of the publication of the said statement on one or more of the following grounds, namely :—

(a) that he will not be benefited by the improvement, or

(b) that there has been material error in regard to the degree of benefit derived, or estimated to be derived from the improvement, or

(c) that he holds no land or premises, or has no interest in the land or premises in the local area.

(3) The order of the Commissioner on any appeal under sub-section (2) shall be final.

(4) The Collector may, on application, or on his own motion, at any time, correct any mistakes in the calculation of the amount apportioned against any landlord or tenant.

Realization of costs due.

21. After the disposal of appeals, if any, under section 20, sub-section (2), the Collector shall confirm the statement, with modifications, if any, and shall proceed in the prescribed manner to recover from the local authority, person landlord or tenant concerned, the amount of the cost due from them.

Recovery of arrears as arrears of land-revenue.

22. All arrears shall be recoverable in the prescribed manner as if they were arrears of land-revenue.

Miscellaneous.

Compensation for consequential damage.

23. Whenever any land, other than land taken or acquired for the purposes of this Act, or any right of fishery, right of drainage, right of the use of water, or other right of property, is injuriously affected by any act done, or any work executed under this Act, the person in whom such property, or right is vested may prefer a claim by petition to the Collector, for compensation :

Provided that the refusal to execute any work for which application is made, and the refusal of permission to execute any work for the execution of which the permission of the Collector or any other authority is required under this Act, shall not be deemed acts on account of which a claim for compensation can be preferred under this section.

of 1920.]

(Miscellaneous—Secs 24—26)

24. (1) No claim under section 23 shall be entertained which is made later than three years after the completion of the work by which such right is injuriously affected

Limitation to
claim for compen-
sation

(2) For the purposes of this section, the date of the completion of the work shall be the date of the publication of the statement and particulars referred to in section 18, sub-section (2)

25. When any such claim is made, proceedings shall be taken with a view to determine the amount of compensation, if any, which should be made and the person to whom the same should be payable, so far as possible in accordance with the provisions of the Land Acquisition Act, 1894¹

Procedure for
determining com-
pensation

26. In any such case which is referred by the Collector to the Court for the purpose of determining whether any, and, if so, what amount of compensation should be awarded, the Court shall take into consideration—

Matters to be
considered in
determining com-
pensation

First, the market value of the property or right injuriously affected at the time when the act was done or the work executed,

Secondly, the damage sustained by the claimant by reason of such act or work injuriously affecting the property or right,

Thirdly, the consequent diminution of the market value of the property or right injuriously affected when the act was done or the work executed,

Fourthly, whether any person has derived, or will derive, benefit from the act or work in respect of which the compensation is claimed, or from any work connected therewith, in which case they shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed to such person.

Provided that the Court shall not take into consideration—

First, the degree of urgency which has led to the act or work being done or executed,

Secondly, any damage sustained by the claimant which, if caused by a private person, would not in any suit instituted against such person justify a decree for damages

(Miscellaneous.--Secs. 27—30.)

Additional costs.

27. If, after the apportionment of the cost of the work as above provided, any expenses not included in such apportionment shall be found to have been paid, or to have become payable, on account of the said work, whether as compensation, or otherwise, or if the amount recovered is insufficient to cover the cost of the scheme, the Collector may proceed to distribute, apportion and recover such additional cost, or deficiency; and the procedure set out in section 18 and the following sections shall then apply.

Drainage works
subject to laws
relating to public
embankments

28. All outlets and water-channels, natural or artificial, included in a scheme under this Act, whether reconstructed, cleared, altered, enlarged, excavated or cut under this Act or not, and the construction and maintenance of embankments and dams and works therein, or connected therewith, shall be subject to the law for the time being in force regulating the construction and maintenance of public embankments rivers, channels and outlets.

Lands and
works how to
be vested.

29. All lands which are taken, or acquired permanently under this Act for the purpose of a scheme, and any work constructed under this Act, and all water channels, embankments and dams included within the scheme, whether reconstructed, cleared, altered, enlarged, excavated, or cut under this Act, or not, shall be vested in the Collector on behalf of His Majesty or, subject to such conditions as may be prescribed, in such local authority, or person as the Local Government may, by general or special order, direct:

Provided that when the total cost of any work has been paid by any local authority, or person, the said lands and works, including any water-channels, embankments and dams, shall, subject to such conditions as may be prescribed, vest in such local authority, or person.

Maintenance of
works

30. The local authority, or person in whom the lands, or works, water-channels, embankments, and dams, are vested shall be responsible for their maintenance, subject to such rules as may be prescribed:

Provided that if the Collector is satisfied that such maintenance is being neglected, or that it is desirable, in the public interests, that such maintenance should be undertaken by the Government, he shall report, through the Commissioner, to the Local Government, who may direct that the duty of maintenance be undertaken by the Local Government.

of 1920.]

(Miscellaneous—Secs. 31—35)

31. All sums recovered as the estimated capital cost of the maintenance of works constructed under this Act shall be administered in the prescribed manner

Administration of capitalized cost of maintenance

32. (1) Any person who, without lawful authority, erects, or causes to be erected, any weir or other obstruction in any outlet or water-channel, or cultivates the bed of a water-channel, so as to obstruct natural drainage, shall, upon conviction before a Magistrate, be liable to a penalty not exceeding two hundred rupees for every such offence

Penalty for constructing weirs, etc., obstructing public drainage

(2) It shall be in the discretion of such Magistrate to direct any such offender to remove or pay for the entire cost of the removal of any such obstruction

33. The Commissioner, the Collector, and a committee appointed under section 9 shall have all such powers as are conferred on a Civil Court by the Code of Civil Procedure, 1908,¹ for the purpose of compelling the attendance of witnesses and the production of evidence, and for the purpose of examining witnesses in any inquiry, or appeal, as the case may be, which they may be empowered to make or entertain under this Act

Powers of the Commissioner, etc., in taking evidence

34. No proceedings under this Act shall be defeated or invalidated by reason of any defect or omission in the publication or service of any notification, notice, or order, unless material injury is done to any person by such defect or omission.

Proceedings not to be invalidated by irregularities

35. (1) The Local Government may, after previous publication,² make rules³ to carry out the purposes of this Act

Power of Local Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, the Local Government may make rules—

(a) fixing the rate of interest to be paid, and the dates from and to which interest on all recoverable deposits, or advances are to be paid, under sub-clause (e) of clause (2) of section 2;

(b) fixing the amount of the costs of the work involved in a scheme, in excess of which such scheme shall be deemed to be a major scheme, and prescribing the circumstances under which the Collector may certify a scheme to be a major scheme;

¹ General Acts, Vol VI.

² As to previous publication, see the Bengal General Clauses Act, 1870 (B.C. Act I of 1892), s. 24

³ For rules under s. 35, see the Bengal Local Statutory Rules and Orders

BENGAL ACT No. VII OF 1920.

THE CALCUTTA PORT (AMENDMENT) ACT, 1920.

CONTENTS

PREAMBLE

SECTION

- 1 Short title and commencement
- 2 Amendment of sections 5, 41, 47 and 53 of Bengal Act III of 1890
- 3 New section substituted for section 8—
 - 8 Appointment of nominated Commissioners, Chairman and Deputy Chairman
- 4 New section substituted for section 9—
 - 9 Term of office of Chairman and Deputy Chairman
- 5 New section substituted for section 11—
 - 11 Salary and allowances of Chairman and Deputy Chairman and fees payable to Commissioners for attendance at meetings
6. Amendment of sections 12 13, 13A, 20A, 69 and 71
7. Amendment of section 17
8. Amendment of sections 32 and 50.
- 9 Amendment of section 31.
- 10 Amendment of section 42.
11. New section 42A—
 - 42A Chairman to be whole-time officer.
- 12 New section 47A—
 - 47A Powers and duties of Deputy Chairman,

(Secs. 5—9.)

(2) The Deputy Chairman shall continue to hold office until he resigns, or the Commissioners, with the approval of the Local Government, cancel his appointment, or appoint a successor."

New section
substituted for
section 11.

5. For section 11 of the said Act, the following shall be substituted, namely:—

Salary and allowances of
Chairman and Deputy Chair-
man, and fees payable to
Commissioners for attend-
ance at meetings.

"11. (1) The Chairman shall receive such salary and allowances as may be fixed by the Local Government.

(2) The Deputy Chairman shall receive such salary and allowances as may from time to time be fixed by the Commissioners in meeting with the approval of the Local Government

(3) The Local Government may determine whether any and what fees shall be paid to the Commissioners other than the Chairman and the Deputy Chairman for attendance at meetings for the transaction of the business of the Trust.

(4) The payment of any salary, allowances, or fees referred to in sub-section (1), (2) or (3) shall be subject to such conditions and restrictions as may be fixed by the Local Government."

Amendment of
sections 12, 13,
13A, 20A, 69 and
74.

6. In sections 12, 13, 13A, 20A, 69, sub-section (1), and 74 of the said Act, for the word "Vice-Chairman," wherever it occurs, the word "Chairman" shall be substituted.

Amendment of
section 17.

7. In section 17 of the said Act—

(1) after the words "every person" where they first occur, the words "other than the Chairman or Deputy Chairman" shall be inserted,

(2) after the words "and every" in clause (a) the word "such" shall be inserted, and

(3) the words "except the office of Vice-Chairman" in clause (a) are hereby repealed.

Amendment of
sections 32 and
50.

8. In sections 32 and 50 of the said Act, for the word "Vice-Chairman" the words "Chairman or the Deputy Chairman" shall be substituted.

Amendment of
section 34.

9. In section 34, sub-section (1), before the word "Secretary" the words "Deputy Chairman" shall be inserted.

of 1920.]

(Secs 10—12)

10. In section 42 of the said Act—

Amendment of
section 42

- (a) for the words 'or Vice-Chairman' the words
"and the Deputy Chairman" and
(b) for the word "Vice-Chairman" in the remain-
ing two places where it occurs the words
"Deputy Chairman"

shall be substituted

11. After section 12 of the said Act the following shall be inserted, namely —

New section
43A

"42A. While any person is holding the office of
Chairman to be whole-
time officer Chairman he shall not hold any
other salaried office, and, subject
to any exceptions permitted by the Local Government
shall devote his whole time and attention to his duties
under this Act"

12. After section 17 of the said Act, the following shall be inserted, namely —

New section
47A

"47A. In addition to any powers or duties con-
ferred on the Deputy
Chairman ferred or imposed on the Deputy
Chairman by any other provision
of this Act or by any rule, by-law or order made here-
under, the Deputy Chairman shall exercise such of
the powers and perform such of the duties of the
Chairman as the Commissioners in meeting may,
subject to the approval of the Local Government, from
time to time, direct"



BENGAL ACT No. VIII OF 1920.

[THE INDIAN RED CROSS SOCIETY (BENGAL BRANCH) ACT, 1920.]¹

[3rd November, 1920]

*An Act to constitute a Bengal Provincial Branch of
the Indian Red Cross Society.*

WHEREAS it is expedient to provide for the future administration of various moneys, properties and gifts received in Bengal from the public during the late war, for the purpose of medical and other aid to sick and wounded and for comforts to troops and other purposes and now held by or in trust for "The Lady Carmichael's Bengal Women's War Fund and 'Our Day' Fund (Bengal Branch)",

AND WHEREAS it is expedient to constitute a Bengal Provincial Branch of the Indian Red Cross Society to continue and extend the work carried on during the war by "The Lady Carmichael's Bengal Women's War Fund and 'Our Day' Fund (Bengal Branch)",

It is hereby enacted as follows —

1. This Act may be called the Indian Red Cross Society (Bengal Branch) Act, 1920. Short title.

2. There shall be constituted in Bengal by this Act a society known as the Bengal Provincial Branch of the Indian Red Cross Society (hereinafter called the Society) The first members thereof shall be appointed either by name or by office, by the Governor of Bengal. They shall be in number not less than twenty-five or more than fifty. Constitution of Society

3. The first members of the Society so appointed and all persons who may hereafter become members thereof, so long as they continue so to be, are hereby constituted a body corporate under the name of the Bengal Provincial Branch of the Indian Red Cross Society, and the said body shall have perpetual succession and a common seal with power to hold and acquire property, movable and immovable, and shall sue and be sued by the said name Incorporation

¹For Statement of Objects and Reasons see *Calcutta Gazette* 1920, Pt. IV, pp. 83 and 84, and for Proceedings in Council see *ibid.*, Pt. IV, pp. 673-675, and p. 802 and pp. 942-944.

(Secs. 4—6.)

Appointment
of Managing
Body.

4. As soon as conveniently may be after their appointment, the first members of the Society shall, at a meeting to be summoned by the Governor of Bengal and held for that purpose, appoint persons from among themselves to be the first members of the Managing Body. The number of members of the Managing Body shall not be less than six or more than twelve.

Dissolution and
transfer of pro-
perty of Lady
Carmichael's
Bengal Women's
War Fund and
"Our Day" Fund
(Bengal Branch).

5. Upon the appointment of the Managing Body,—

(a) the Committees of the Lady Carmichael's Bengal Women's War Fund and "Our Day" Fund (Bengal Branch), shall be dissolved;

(b) all property, movable or immovable, of, or belonging to, the said Funds or held in trust for them, shall vest in the Society, and be applied by the Managing Body of the Society to the objects and purposes herein-after set out; and

(c) all the debts and liabilities of the said Funds shall be transferred to the Society and shall thereafter be discharged and satisfied by it out of the aforesaid property, and each and every member of the Committees of the said Funds shall be wholly discharged therefrom.

Powers to make
rules.

6. (1) The Managing Body shall, within six months from the commencement of this Act, make rules for the management, control and procedure of the Society. Such rules may among other matters provide for the following, namely:—

(a) the conditions of membership of the Society,

(b) the appointment and term of office of the Managing Body,

(c) the constitution of Finance, Medical and other Committees and the delegation of powers to them, and

(d) the regulation of the procedure generally of the Society and Managing Body.

(2) Such rules shall, on being approved at a general meeting of the members of the Society, be held to be binding on every member thereof:

of 1920.]

(Sec 7)

Provided that the Managing Body may, from time to time, make such further rules as may be found necessary, and such rules on being approved at a general meeting of the Society shall be binding on every member thereof

7. Notwithstanding anything contained in any appeal for subscriptions or gifts to or for the purposes of the said Funds, the Managing Body may in its discretion apply—

Purposes to which the funds of the Society may be applied

(a) either the corpus or the income or any part of such corpus or income of any property vested in it under clause (b) of section 3 for the relief of sickness, suffering or distress caused by the operation of war in India or in any other country in which Expeditionary Forces from India may from time to time be employed, and for purposes cognate to that object, and in maintaining Red Cross Depôts for military purposes,

(b) the income only of any such property but not the corpus or any part thereof for the relief of sickness or suffering in India, whether due to the operation of war or not, or in pursuance of any of the following objects, namely —

(1) the care of sick and wounded of His Majesty's Forces, whether still on the active list or demobilized,

(2) provision of comforts and assistance to members of His Majesty's Forces, whether on the active list or demobilized,

(3) the care of those suffering from tuberculosis, having regard in the first place to soldiers and sailors, whether they have contracted the disease on active service or not,

(4) work parties to provide the necessary garments, etc., for hospitals and health institutions in need of them,

(5) home service ambulance work;

[Ben. Act VIII of 1920.]

(Sec. 8.)

- (6) assistance required in all branches of nursing, health and welfare work, ancillary to any organizations which have or may come into being in India and which are recognized by the Society;
- (7) child welfare;
- (8) such other cognate objects as may from time to time be approved by the Society;
- (9) the expenses of management of the Society: and
- (10) the representation of the Society on or at Committees formed for furthering objects similar to those of the Society:

Provided that nothing contained in this section shall prevent the Managing Body from applying any sums received by the Society for a specific purpose to that purpose.

8. Nothing in this Act shall prevent the Society from —

- (a) receiving gifts of whatever nature to or for all or any of the purposes to which the funds vested in the Society under this Act may be applied under the provisions of section 7;
- (b) allocating any funds in its hands to other societies or associations to be spent by them in furtherance of all or any of the purposes to which the funds vested in the Society under this Act may be applied under the provisions of section 7.

Power to
receive other gifts
and to distribute
funds through
other Societies.

BENGAL ACT No. 1 OF 1921.

(THE DEPUTY-PRESIDENT'S EMOLUMENTS
ACT, 1921.)¹

[16th March, 1921]

An Act to determine the salary of the Deputy-President of the Bengal Legislative Council

WHEREAS it is expedient to determine the salary of the Deputy-President of the Bengal Legislative Council,

It is hereby enacted as follows —

1. This Act may be called the Deputy-President's Emoluments Act, 1921 Short title

2. (1) There shall be paid to the Deputy-President of the Bengal Legislative Council from the date of the approval by the Governor of his election as Deputy-President a salary at the rate of five thousand rupees a year. Salary of Deputy President

(2) This salary shall be paid by quarterly instalments

¹ For Statement of Objects and Reasons see *Calcutta Gazette* 1921, Pt. IV, p. 2 and for Proceedings in Council, see the Bengal Legislative Council Proceedings 1921, Vol. I, pp. 66—67, and pp. 337 and 338



BENGAL ACT No. II OF 1921.

[THE BENGAL LAND REGISTRATION (AMENDMENT) ACT, 1921.]¹

[28th September, 1921]

*An Act further to amend the Land Registration
Act, 1876*

WHEREAS it is expedient further to amend the
Land Registration Act, 1876,² in the manner herein-
after appearing,

It is hereby enacted as follows —

1. This Act may be called the Bengal Land Registration (Amendment) Act 1921

Short title

2. At the end of section 70 of the Land Registration Act, 1876³ as amended by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907, the following shall be added namely —

Amendment of
section 70 of
Bengal Act VII
of 1876

“and no separate account shall be opened on such
application until an additional fee at the rate
mentioned below is paid by the applicant,
namely —

for a separate account for
which the land-revenue
payable does not exceed
ten rupees . . . four rupees,

for a separate account for
which the land-revenue
payable exceeds ten
rupees but does not exceed
fifty rupees . . . ten rupees,

for a separate account for
which the land-revenue
payable exceeds fifty
rupees but does not exceed
one hundred rupees . . . fifteen rupees,

for a separate account for
which the land-revenue
payable exceeds one
hundred rupees . . . twenty rupees”

¹ For Statement of Objects and Reasons, see *Calcutta Gazette* 1921, Pt. IV, p. 20
and for Enactment, see the Bengal Legislative Council Proceedings, 1921,
Vol. III, p. 157 at Vol. IV, p. 1243.

² Bengal Act No. VII

BENGAL ACT No. III OF 1921.

[THE BENGAL PRIMARY EDUCATION (AMENDMENT) ACT, 1921.]¹

[11th January, 1921]

*An Act to amend the Bengal Primary Education
Act, 1919*

Act IV
1919 WHEREAS it is expedient to amend the Bengal
Primary Education Act 1919,² in the manner herein-
after appearing;

And whereas the previous sanction of the
Governor General required by clause (a) of sub-
section (3) of section 80A of the Government of India
Act has been obtained to the passing of this Act,

It is hereby enacted as follows —

1. This Act may be called the Bengal Primary Education (Amendment) Act, 1921 Short title

2. In the proviso to section 1 of the Bengal Primary Education Act, 1919— Amendment of
section 1 of
Bengal Act IV of
1919

(a) after the words and figures "the Bengal Local
Self-Government Act of 1885" the words
and figures "or under section 5 of the
Bengal Village Self-Government Act, 1919,"
and

(b) after the words "Union Committee" the
words "or the Union Board"

shall be inserted.

¹ For Statement of Objects and Reasons see *Calcutta Gazette*, 1921, Pt. IV, p. 34,
and for Proceedings in Council, see the *Bengal Legislative Council Proceedings*, 1921,
Vol. V, p. 90

² Printed ante, p. 107

BENGAL ACT No. I OF 1922.

[THE CALCUTTA IMPROVEMENT (AMENDMENT) ACT, 1922.]¹

[8th March, 1922.]

An Act further to amend the Calcutta Improvement Act, 1911.

Act of 1911. WHEREAS it is expedient further to amend the Calcutta Improvement Act, 1911,² in the manner hereinafter appearing, in order to award a sum of fifteen *per cent.* on the market value of land acquired for the Calcutta Improvement Trust in consideration of the compulsoery nature of the acquisition, in lieu of the costs hitherto awarded in substitution therefor; Preamble

It is hereby enacted as follows:—

1. This Act may be called the Calcutta Improvement (Amendment) Act, 1922. short title.

of 1894 Act of 1911 2. Sections 2, 6, 7 and 8, section 9, sub-section (1), and section 12 of the Schedule to the Calcutta Improvement Act, 1911, are hereby repealed in respect of all awards made after the commencement of this Act by the Collector under the Land Acquisition Act, 1894, as amended by the Calcutta Improvement Act, 1911, in regard to land acquired for the Calcutta Improvement Trust and in respect of all appeals or proceedings in connection with such awards. Repeal of sections 2, 6, 7, 8, 9(1) and 12 of the Schedule.

¹ For Statement of Objects and Reasons, see *Calcutta Gazette*, 1922, Pt. IV, p. 12, and for Proceedings in Council, see the Bengal Legislative Council Proceedings, 1922, vol. VII, No. 1, p. 163, and pp. 334-337.

² Bengal Code, Vol. III

BENGAL ACT No. II OF 1922.
THE BENGAL CHILDREN ACT, 1922.

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BENGAL ACT No. II OF 1922.

(THE BENGAL CHILDREN ACT, 1922.)¹

[29th March, 1922]

An Act to make further provision for the custody, trial and punishment of youthful offenders and for the protection of children and young persons

WHEREAS it is expedient to provide further for the custody, trial and punishment of youthful offenders and for the protection of children and young persons;

Preamble

And whereas the previous sanction of the Governor General has been obtained, under section 80A, sub-section (3) of the Government of India Act, to the passing of this Act,

It is hereby enacted as follows —

CHAPTER I

PRELIMINARY.

1. (1) This Act may be called the Bengal Children Act, 1922

Short title,
commencement
and local extent

(2) It shall come into force² [in whole or in part,] on such date as the Local Government may, by notification in the *Calcutta Gazette*, direct³ [and for this purpose different dates may be appointed for different provisions of this Act and for different parts of the area defined in sub-section (3)]

(3) Subject to the provisions of section 27, this Act extends in the first instance to the town of Calcutta, as defined in section 3 of the Calcutta Police Act, 1866⁴ the suburbs of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866⁵, the port of Calcutta as defined by notification under section 5 of the Indian Ports Act, 1908⁶ and the Municipality of Howrah, but the Local Government may, by notification in the *Calcutta Gazette*, extend it to any other town or place in Bengal

2. The Reformatory Schools Act, 1897,⁷ with the exception of section 15 thereof, shall be deemed to be repeated—

Repeal of Act
VIII of 1897

(a) in the area to which this Act extends in the first instance under the provisions of section 1, sub-section (3), from the date of the commencement of this Act, and

¹ For Statement of Objects and Reasons see *Calcutta Gazette*, 1921, Pt IV, p. 21, and for Proceedings in Council see the Bengal Legislative Council Proceedings, 1921, Vol III, pp. 131–136, at Vol IV, p. 123, and also Vol V II, No. 1, 1922, pp. 22–107 and 133–161

² These words in square brackets were inserted by the Bengal Children (Amendment) Act, 1923 (Bengal Act V of 1923), s. 2, post, p. 205

³ These words in square brackets were also inserted by section 2 of the same Act

⁴ Bengal Code, Vol II

⁵ General Acts, Vol VI

⁶ General Acts, Vol IV

b & 6 Geo
, c 61, 6 & 7,
, V, c 37,
& II, Geo
, c 101

Bengal Act IV
1866

Bengal Act II
1866
XV of 1908

VIII of 1897

(Chapter I.—Preliminary.—Secs. 3, 4.)

(b) in any other town or place to which this Act may hereafter be extended under section 1, sub-section (3), from the date of such extension.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) “child” means a person under the age of fourteen years, and when used in reference to a child sent to an industrial school it applies to that child during the whole period of detention, notwithstanding that the child attains the age of fourteen years before the expiration of that period;

(2) “guardian” in relation to a child, young person, or youthful offender, includes any person who, in the opinion of the Court having cognizance of any case in relation to the child, young person, or youthful offender, or in which the child, young person, or youthful offender is concerned, has for the time being the charge of or control over the child, young person, or youthful offender;

(3) “industrial school” means an industrial school established or certified by the Local Government under section 6;

(4) “prescribed” means prescribed by rules under this Act;

(5) “reformatory school” means a reformatory school established or certified by the Local Government under section 6;

(6) “young person” means a person who is fourteen years of age or upwards and under the age of sixteen years; and

(7) “youthful offender” means any person who has been convicted of an offence punishable with transportation or imprisonment, and who at the time of such conviction was under the age of sixteen years.

Jurisdiction.

4. The powers conferred on Courts by this Act shall be exercised only by—

(a) the High Court,

(b) a Court of Session,

(c) a Court of an Additional Sessions Judge and of an Assistant Sessions Judge,

(d) a Juvenile Court constituted under this Act,

(e) a District Magistrate,

of 1922.]

(Chapter I—Preliminary—Chapter II—Reformatory and industrial schools—Secs 5, 6)

- (f) a Sub-divisional Magistrate,
- (g) a Presidency Magistrate,
- (h) a Magistrate of the first class,
- (i) any Magistrate of the second class specially empowered by the Local Government to exercise all or any of such powers,

and may be exercised by such Courts whether the case comes before them originally or in appeal or revision.

5. (1) When any Magistrate not empowered to pass an order under this Act is of opinion that a child or young person brought before him or convicted by him is a proper person to be sent to a reformatory or industrial school or to be dealt with in any other manner in which the case may be dealt with under this Act, he shall record such opinion, and submit his proceedings and forward the child or young person to the nearest Juvenile Court or Court of a Magistrate having authority to exercise powers under this Act and having jurisdiction in the case.

Procedure when Magistrate is not empowered to pass an order under this Act

(2) The Court to which the proceedings are submitted under sub-section (1) may make such further inquiry (if any) as it may think fit and may make such order dealing with the case as such Court might have made if the child or young person had originally been brought before it.

CHAPTER II.

REFORMATORY AND INDUSTRIAL SCHOOLS

6. (1) The Local Government may establish and maintain reformatory and industrial schools for the reception of youthful offenders and children who may be sent there in pursuance of this Act.

Establishment and certification of schools

(2) The Local Government, on the application of or with the consent of the managers of any reformatory or industrial school not established under sub-section (1), may certify that such reformatory or industrial school is fit for the reception of youthful

(Chapter II.—*Reformatory and industrial schools.*—
Secs. 7-9.)

offenders or children to be sent there in pursuance of this Act; and may pay to the managers of such school such contributions as the Local Government may think fit for the maintenance thereof.

Management of
schools.

7. (1) For the control and management of every reformatory or industrial school established under section 6, sub-section (1), a superintendent and a committee shall be appointed by the Local Government, and such superintendent and committee shall be deemed to be the managers of the school for the purposes of this Act.

(2) Every school certified under section 6, sub-section (2), shall be under the management of such persons as may be approved by the Local Government, and the persons so approved shall be deemed to be the managers of the school for the purposes of this Act.

(3) Where girls and boys are accommodated in any reformatory or industrial school, the accommodation provided for girls shall be in a separate building and compound.

Inspection of
schools.

8. (1) The Local Government may appoint a chief inspector of reformatory and industrial schools and so many inspectors and assistant inspectors as they think fit to assist the chief inspector; and every person so appointed to assist the chief inspector shall have such of the powers and duties of the chief inspector as the Local Government direct, but shall act under the direction of the chief inspector.

(2) Every reformatory and industrial school shall, at least once in every six months, be inspected by the chief inspector, or by an inspector or assistant inspector:

Provided that when any such school is for the reception of girls only and such inspection is not made by the chief inspector, the inspection shall, when practicable, be conducted by a woman.

Power of
inspectors.

9. The chief inspector, or an inspector, or an assistant inspector authorized in that behalf by the chief inspector, may, at any time, enter and inspect any reformatory or industrial school in all its departments.

of 1922.]

(Chapter II—Reformatory and industrial schools—
Secs 10—13)

10. Any qualified medical practitioner empowered in this behalf by the Local Government may visit any reformatory or industrial school at any time, with or without notice to its managers or other person in charge thereof, in order to report to the chief inspector on the health of the inmates and the sanitary condition of the school

Medical inspection ins-

Provided that, in the case of a school for girls only such practitioner shall, when practicable, be a woman

11. The Local Government, if dissatisfied with the condition, rules, management, or superintendence of a certified school, may, at any time, by notice served on the managers of the school, declare that the certificate of the school is withdrawn as from the time specified in the notice, and, at that time, the withdrawal of the certificate shall take effect, and the school shall cease to be a certified school

Power of Local Government to withdraw certificate

Provided that the Local Government may, if they think fit, instead of so withdrawing the certificate, by notice served on the managers of the school, prohibit the admission of youthful offenders or children to the school for such time as may be specified in the notice or until the notice is revoked

Provided also that before the issue of notice under this section or under the first proviso thereto a reasonable opportunity shall be given to the managers of the school to show cause why the certificate shall not be withdrawn or admission to the school shall not be prohibited, as the case may be

12. The managers of a certified school on giving six months' notice in writing to the Local Government, through the chief inspector, of their intention so to do, may resign the certificate of the school, and, accordingly, at the expiration of six months from the date of the receipt of the notice by the chief inspector (unless before that time the notice is withdrawn), the resignation of the certificate shall take effect, and the school shall cease to be a certified school.

Resignation of certificate by managers

13. No youthful offender or child shall be received into a certified school in pursuance of this Act after the date of the receipt by the managers of the school of a notice of withdrawal of the certificate for the school, or after the date of the issue of a notice of resignation of the certificate; but the obligation of

Effect of withdrawal of resignation certificate of

*(Chapter II.—Reformatory and industrial schools.—
Secs. 14—16.)*

the managers of the school, mentioned in section 16, to teach, train, lodge, clothe and feed any youthful offenders or children detained in the school at the respective dates aforesaid shall, except so far as the Local Government otherwise direct, continue until the withdrawal or resignation of the certificate takes effect.

Disposal of
inmates when
school ceases to
be certified.

14. When a school ceases to be a certified school the youthful offenders or children detained therein shall, by order of the Local Government, be discharged absolutely or on such conditions as the Local Government may impose or be transferred to some other reformatory or industrial school or auxiliary home in accordance with the provisions of this Act.

Auxiliary
homes.

15. The Local Government may establish auxiliary homes for the reception of any inmates or any classes of inmates of reformatory or industrial schools, or may certify any other such home established before or after the passing of this Act by any other persons, and the certificate may be withdrawn or resigned in like manner as a certificate of a reformatory or industrial school; and every such home shall, for such purposes as may be specified by the Local Government, be treated as part of the school or schools to which it is attached.

Liabilities of
managers.

16. The managers of a certified school may decline to receive any youthful offender or child proposed to be sent to them in pursuance of this Act, but when they have once accepted any such offender or child, they shall be deemed to have undertaken to teach and train and, further, if the school is residential, to lodge, clothe and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate of the school takes effect:

Provided that the Local Government may, on an application made in that behalf by the managers of a certified school, arrange for the transfer of such offender or child to any other reformatory or industrial school.

of 1922.]

(Chapter III—Youthful offenders—Secs 17—19)

CHAPTER III

YOUTHFUL OFFENDERS

17. When a person apparently under the age of sixteen years is arrested and cannot be brought forthwith before a Court, the officer in charge of the police-station to which such person is brought may in any case and shall, unless the charge is one of culpable homicide or any other offence punishable with death or transportation, release him on bail, with or without sureties

Bail of child or young person

Provided that when a girl apparently under the age of sixteen years is arrested, the officer in charge of a police-station who has made the arrest or before whom the girl has been produced, shall release her at once if any person, who in his opinion is a sufficient surety, enters into a bond for such sum of money as the officer considers sufficient, to produce her before the Court and to appear in her stead, if required, at the police-station

18. (1) When a person apparently under the age of sixteen years having been arrested is not released on bail as provided in section 17, the officer in charge of the police-station shall cause him to be detained in a place other than a police-station or jail in the prescribed manner, until he can be brought before a Court

Custody of child or young person not released on bail

(2) No police-officer shall, however, detain in custody any such person for a longer period than is reasonable under all the circumstances of the case; and such period shall not, in the absence of a special order of a Court, exceed twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the Court.

19. A Court, on remanding or committing for trial a child or young person who is not released on bail as provided in section 17, shall, instead of committing him to prison, order him to be detained in a place other than a police-station or jail in the prescribed manner, for the period for which he is remanded.

Remand or committal custody

(Chapter III — Youthful offenders.—Secs. 20, 21.)

Attendance at Court of parent of child or young person charged with an offence, etc.

20. (1) When a child or young person is charged with any offence, or when a child is brought before a Court on an application for an order to send him to an industrial school, his parent or guardian may, in any case, and shall, if he can be found and resides within a reasonable distance and the person so charged or brought before the Court is a child, be required to attend at the Court before which the case is heard, during all the stages of the proceedings, unless the Court is satisfied that it would be unreasonable to require his attendance.

(2) When the child or young person is arrested, the officer in charge of the police-station to which he is brought shall forthwith inform the parent or guardian, if he can be found, of such arrest, and shall also cause him to be warned to attend at the Court before which the child or young person will appear.

(3) The parent or guardian, whose attendance is required under this section, shall be the parent or guardian having the actual possession and control of the child or young person :

Provided that if the parent or guardian is a person other than the father, the attendance of the father or, if the father is dead or cannot be found, the attendance of the nearest adult male relative may also be required.

(4) The attendance of the parent of a child or young person shall not be required under this section in any case where the child or young person was, before the institution of the proceedings, removed from the custody or charge of his parent by an order of a Court.

(5) Nothing in this section shall be deemed to require the attendance of the mother or the female guardian of a child or young person, if such mother or female guardian does not, according to the customs and manners of the country, appear in public, but any such person may appear before the Court by a pleader or agent.

Restrictions on punishment of children and young persons.

21. Notwithstanding anything to the contrary contained in any law, no child or young person shall be sentenced to death, transportation or imprisonment or committed to prison in default of payment of a fine or in default of furnishing security :

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(Chapter III—Youthful offenders—Sec 22.)

Provided that a young person may be sentenced to imprisonment or committed to prison as aforesaid when the Court certifies that he is of so unruly or so depraved a character that he is not a fit person to be sent to a reformatory school and that none of the other methods in which the case may legally be dealt with is suitable

MODE OF SENDING YOUTHFUL OFFENDERS TO REFORMATORY OR INDUSTRIAL SCHOOLS

22. (1) When a youthful offender, who in the opinion of the Court before which he is charged is twelve years of age or upwards, is convicted of an offence punishable with transportation or imprisonment, the Court may in addition to or in lieu of sentencing him according to law to any other punishment, order that he be sent to a reformatory school

Commitment of offenders between twelve and sixteen years of age to reformatory or industrial schools

Provided that when the offender is ordered to be sent to a reformatory school he shall not in addition be sentenced to imprisonment

(2) When a youthful offender of twelve years of age or upwards has been sentenced to transportation or imprisonment, the Local Government may direct that, in lieu of undergoing or completing such sentence, he shall be sent to a reformatory school, and thereupon the offender shall be subject to all the provisions of this Act as if he had been originally sentenced to detention in a reformatory school

(3) When a youthful offender who in the opinion of the Court before which he is charged is under twelve years of age, is convicted of an offence punishable with death, transportation or imprisonment, the Court may order that he be sent to an industrial school

(4) When a youthful offender of the age of twelve or thirteen years, who has not previously been convicted, is convicted of an offence punishable with transportation or imprisonment, and the Court is satisfied that the youthful offender should be sent to an industrial school, but, having regard to the special circumstances of the case, should not be sent to a reformatory school, and is also satisfied that the character and antecedents of the youthful offender are such that he will not exercise an evil

(Chapter III.—Youthful offenders.—Secs. 23, 24.)

influence over the other inmates of an industrial school, the Court may order the youthful offender to be sent to an industrial school after previously ascertaining that the managers are willing to receive him :

Provided that the Local Government may, on the application of the managers of the industrial school, by order, transfer the youthful offender to a reformatory school.

(5) When a young person has been ordered by a Court to give security under section 106 or section 118 of the Code of Criminal Procedure, 1898,¹ and has failed to do so, the Court which made the order may order such young person to be sent to a reformatory school.

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Period of detention.

23. Every order, in pursuance of which a youthful offender or child is sent to a reformatory or industrial school, shall specify the time for which the youthful offender or child is to be detained in the school, being—

- (a) in the case of a youthful offender sent to a reformatory school, not less than two and not more than five years, but not in any case extending beyond the time when the youthful offender will, in the opinion of the Court, attain the age of eighteen years; and
- (b) in the case of a child sent to an industrial school, such time as to the Court may seem proper for the teaching and training of the child, but not in any case extending beyond the time when the child will, in the opinion of the Court, attain the age of sixteen years.

OTHER WAYS OF DEALING WITH YOUTHFUL OFFENDERS.

Power to discharge youthful offender or to commit him to suitable custody.

24. A Court may, if it shall think fit, instead of directing any youthful offender to be detained in a reformatory or industrial school, order him to be—

- (a) discharged after due admonition, or
- (b) committed to the custody of his parent or guardian or any adult relative, or failing any such person, or if any such person is found unfit by the Court, then to the

¹ General Acts, Vol. V.

of 1922.]

(Chapter III.—Youthful offenders.—Secs 25, 26)

custody of any trustworthy and respectable person, on such parent, guardian, relative or person executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding twelve months,

and the Court may, in addition to such order, make an order that the youthful offender be placed under the supervision of a person to be named by the Court

25. (1) When a child or young person is convicted of an offence punishable with fine and the Court is of opinion that the case would be best met by the imposition of a fine, whether with or without any other punishment, the Court may, in any case, and shall if the offender is a child, order that the fine be paid by the parent or guardian of the child or young person, unless the Court is satisfied that the parent or guardian cannot be found or that he has not concurred to the commission of the offence by neglecting to exercise due care of the child or young person

Power to order parent to pay fine, etc

(2) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard

(3) Any order directing that a parent or guardian shall pay a fine under this section may be enforced as though it were an order passed under the Code of Criminal Procedure, 1898¹

(4) A parent or guardian may appeal against any such order as if it had been an order passed in proceedings against himself.

26. (1) When a child is convicted of an offence of so serious a nature that the Court is of opinion that no punishment which under the provisions of this Act it is authorized to inflict is sufficient, the Court shall order the offender to be kept in safe custody in it thinks fit, and shall report to the Local Government

Detention in the case of certain crimes committed by children

the provisions of section 21, the Local Government may order any such child to be detained in such place and on such conditions as they think fit, and whilst so detained the child shall be deemed to be in legal custody:

*Chapter IV.—Mode of sending neglected children
to industrial schools.—Sec. 27.)*

Provided that no period of detention so ordered shall exceed the maximum period of imprisonment to which the child could have been sentenced for the offence committed :

Provided also that at any time during the period of such detention the Local Government may, if they think fit, direct that in lieu of such detention the youthful offender be kept in a reformatory school until he has attained the age of eighteen.

CHAPTER IV.

MODE OF SENDING NEGLECTED CHILDREN TO INDUSTRIAL SCHOOLS.

Children liable
to be sent to
industrial schools.

27. (1) In any area to which the Local Government may, by notification in the *Calcutta Gazette*, direct that this section or any portion of it shall apply, a Court having jurisdiction under this Act—

(i) upon receiving a petition in this behalf, or

(ii) upon a police report, or

(iii) upon its own knowledge or suspicion, may, either by a summons to the parent or guardian of a child apparently under the age of fourteen years or by a warrant to be executed by a police-officer not below the rank of sub-inspector or by some other person authorized by the Local Government in this behalf, order the production of such child on such a day as may be specified in the summons or warrant if the Court has reason to believe that the child—

(a) lives by begging; or

(b) is destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child his mother, undergoing transportation or imprisonment; or

(c) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child; or

(d) is under the care of a parent or guardian who habitually neglects or cruelly ill-treats the child; or

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(Chapter IV—Mode of sending neglected children to industrial schools—Sec 27)

(e) frequents the company of any reputed thief or prostitute, or

(f) is living in circumstances calculated to cause, encourage or favour the seduction or prostitution of the child

(2) In any such area, any person authorized by the Local Government in this behalf may bring before a Juvenile Court or Court of a Magistrate having jurisdiction under this Act any child apparently under the age of fourteen years who—

(a) is found in any street or place of public resort begging or receiving alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise), or being in any such street or place for the purpose of so begging or receiving alms, or

(b) is found wandering and not having any home or settled place of abode, or visible means of subsistence, or is found wandering and having no parent or guardian, or a parent or guardian who does not exercise proper guardianship, or

(c) is found destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child his mother, undergoing transportation or imprisonment; or

(d) frequents the company of any reputed thief or prostitute, or

(e) lives in houses of ill-fame; or

(f) is subject to cruel treatment,

and the Court before which a child is brought as coming within one of those descriptions shall examine the information and record the substance of such examination, and shall, if it thinks that there are sufficient grounds for inquiring further, fix a date for such inquiry.

(3) On the date fixed for the production of the child under sub-section (1) or for the inquiry under sub-section (2), or on any subsequent date to which the proceedings may be adjourned, the Court shall hear and record all evidence which may be adduced and consider any cause which may be shown why an order sending the child to an industrial school should not be passed and make any further inquiry it thinks fit

(Chapter IV.—Mode of sending neglected children to industrial schools.—Sec. 28.)

(4) If, after inquiry, the Court is satisfied that it is expedient to send the child to an industrial school, it shall pass an order to that effect.

(5) If, after inquiry, the Court is satisfied that the child has been living by begging at the instance or for the profit of any person who is a professional keeper of begging children, then the Court may direct such person to appear before it and, after hearing him in his defence, may, in its discretion, direct him to pay towards the cost of the proceedings any amount not exceeding twenty-five rupees, and such cost shall be realizable under the provisions of the Code of Criminal Procedure, 1898,¹ as if it were a fine.

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28. (1) When under this Act a Court is empowered to order a child to be sent to an industrial school, the Court, in lieu of ordering him to be so sent, may make an order for the committal of the child to suitable custody in the prescribed manner, until he attains the age of sixteen years, or for any shorter period.

(2) Any person authorised by the Local Government in this behalf may bring before a Juvenile Court or Court of a Magistrate having authority to exercise powers under this Act and having jurisdiction in the case any young person apparently of the age of fourteen or fifteen years so circumstanced, that if he were a child, he would come within one or other of the descriptions mentioned in section 27, and the Court, if satisfied, after inquiry in the manner prescribed by section 27, sub-sections (2) and (3), that it is expedient so to deal with him, may make an order for his committal to suitable custody in the prescribed manner, until he attains the age of sixteen years, or for any shorter period.

(3) The Court which makes an order committing a child or young person to suitable custody under this section may, in addition, order that the child or young person be placed under the supervision of a person to be named by the Court.

²[(4) Notwithstanding anything contained elsewhere in this Act, no order shall be passed sending a child to an industrial school, unless the Court is satisfied that accommodation suitable for such child is available.]

¹ General Acts, Vol. V.

² This sub-section in square brackets was added to s. 28 by the Bengal Children (Amendment) Act, 1923 (Ben. Act V of 1923), s. 3, *post*, p. 805.

Power to commit child or young person to suitable custody.

of 1922.]

(Chapter IV—Mode of sending neglected children to industrial schools—Chapter V—Maintenance and treatment of persons in reformatory or industrial schools or under custody—Secs 29—31)

29. The Local Government, at the request of the Court or on the application of a parent or relative of the child, may make an order directing the restitution on such conditions as may be specified in the order of any child, who having been dealt with by a Court under section 27, sub-section (1), has either been sent to an industrial school or committed under section 28, to such parent or relative of the child as the Local Government may select; and the order passed by the Court in respect of such child shall thereupon be deemed to be modified accordingly.

Power to Local Government to restore child to parent or relative

30. If it appears to a Court, on the complaint of any person, that a girl under the age of sixteen years is being treated with cruelty by her parent or guardian or that such girl, with the knowledge of her parent or guardian, is exposed to the risk of seduction or prostitution or living a life of prostitution, the Court may direct the parent or guardian to enter into a recognizance to exercise due care and supervision in respect of such girl.

Care of girls

CHAPTER V.

MAINTENANCE AND TREATMENT OF PERSONS IN REFORMATORY OR INDUSTRIAL SCHOOLS OR UNDER CUSTODY

31. (1) The Court which makes an order for the detention of a youthful offender or child in a reformatory or industrial school, or for the commitment of a child or young person to suitable custody under this Act, may order the parent or other person liable to maintain the youthful offender, young person or child to contribute to his maintenance, if able to do so, in the prescribed manner.

Contribution of parent

(2) The Court, before making an order under sub-section (1), shall inquire into the circumstances of the parent or other person liable to maintain the youthful offender, young person or child, and shall record the evidence, if any, in the presence of the parent or such other person, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader.

(Chapter V.—Maintenance and treatment of persons in reformatory or industrial schools or under custody.—Secs. 32, 33.)

(3, The persons liable to maintain a youthful offender, young person or child shall, for the purposes of sub-section (1), include, in the case of illegitimacy, his putative father against whom an order under section 488 of the Code of Criminal Procedure, 1898, Act has already been passed, or who has been otherwise declared to be the putative father by any competent Court or authority:

Provided that where the youthful offender, young person or child is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1898, the Court shall not ordinarily make an order for contribution against the putative father, but may order the whole or any part of the sums accruing due under the said order for maintenance to be paid to such person as may be named by the Court, and such sums shall be applied by him towards the maintenance of the youthful offender, young person or child. A
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(4) Any order under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1898.

Boarding out
of children.

32. The managers of an industrial school to which a child under the age of eight years is sent may, with the consent in writing of the chief inspector, board the child out with any suitable person until the child reaches the age of ten years, and thereafter for such longer period, with the consent in writing of the chief inspector, as the managers consider to be advisable in the interests of the child, subject to the exercise by the managers of such powers as to supervision, recall, and otherwise as may be prescribed; and, when a child is so boarded out, he shall, nevertheless, be deemed, for the purposes of this Act, to be a child detained in the school, and the provisions of this Act shall apply accordingly, so far as possible.

Placing out on
license.

33. (1) When a youthful offender or child is detained in a reformatory or industrial school, the managers of the school may, at any time, with the consent in writing of the chief inspector, by license, permit the youthful offender or child, on such conditions as may be prescribed, to live with any trustworthy and

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(Chapter V.—Maintenance and treatment of persons in reformatory or industrial schools or under custody.—Sec. 34.)

respectable person named in the license willing to receive and take charge of him with a view to train him for some useful trade or calling.

(2) Any license so granted shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.

(3) The managers of the school may, at any time by order in writing, revoke any such license, and order the youthful offender or child to return to the school, and shall do so at the desire of the person to whom the youthful offender or child is licensed.

(4) If the youthful offender or child refuses or fails to return to the school, the managers of the school may, if necessary, arrest him, or cause him to be arrested, and may take him, or cause him to be taken, back to the school.

(5) The time during which a youthful offender or child is absent from a reformatory or industrial school in pursuance of a license under this section shall be deemed to be part of the time of his detention in the school:

Provided that, when a youthful offender or child has failed to return to the school on the license being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school.

34. (1) When a license has been revoked or forfeited and the youthful offender or child refuses or fails to return to the school, a Court, if satisfied by information on oath that there is reasonable ground for believing that his parent or guardian could produce the youthful offender or child, may issue a summons requiring the parent or guardian to attend at the Court on such a day as may be specified in the summons, and to produce the child, and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act or any other law, be liable to a fine not exceeding twenty-five rupees.

Power to order parent to produce youthful offender or child who refuses to return to school.

(2) Any order directing that a parent or guardian shall pay a fine under this section may be enforced as though it were an order passed under the Code of Criminal Procedure, 1898.¹

(Chapter V.—Maintenance and treatment of persons in reformatory or industrial schools or under custody—Secs. 35, 36.)

Penalty for
abetting escape
of youthful
offender or child.

35. Whoever—

- (a) knowingly assists or induces, directly or indirectly, a youthful offender or child detained in or placed out on license from a reformatory or industrial school to escape from the school or from any person with whom he is placed out on license; or any child or young person to escape from the person to whose custody he is committed under this Act; or
- (b) knowingly harbours, conceals, or prevents from returning to school, or to any person with whom he is placed out on license, or to the person to whose custody he is committed under this Act, a youthful offender, young person or child who has so escaped, or knowingly assists in so doing;

shall be liable to imprisonment for a term which may extend to two months or to a fine not exceeding two hundred rupees, or to both.

Discharge and
transfer.

36. (1) The Local Government may, at any time, order a youthful offender or a child to be discharged from a reformatory or industrial school either absolutely or on such conditions as the Local Government approve.

(2) The Local Government may order—

- (a) a youthful offender or child to be transferred from one reformatory school to another, or from one industrial school to another;
- (b) a youthful offender under the age of fourteen years detained in a reformatory school to be transferred to an industrial school;
- (c) a young person detained in an industrial school, who is found to be exercising an evil influence over the other inmates of the school or who is guilty of a serious breach of the rules of the school or of escaping from the school, to be transferred to a reformatory school:

Provided that the whole period of the detention of the youthful offender, young person or child shall not be increased by the transfer.

of 1922.]

(Chapter VI—Miscellaneous.—Secs. 37, 38)

CHAPTER VI.

MISCELLANEOUS

37. (1) The Local Government may provide for the establishment for any district or other local area of one or more separate Courts for the hearing of charges against children or young persons or of applications for orders or licenses relating to a child or young person at which the attendance of the child or young person is required.

Juvenile Courts

(2) Where no such separate Court has been established, the Court before which a child or young person is brought shall, unless the child or young person is charged jointly with any other person not being a child or young person, whenever practicable sit either in a different building or room from that in which the ordinary sittings of the Court are held or on different days or at different times from those at which the ordinary sittings are held.

¹[(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898,² a Juvenile Court established for the suburbs of Calcutta, as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866,³ or a Magistrate of the district of the 24-Parganas exercising powers under this Act, may inquire into and try in such place within Calcutta as the Local Government may direct the case of any child or young person who is accused of committing any offence within those suburbs and such inquiry or trial shall for the purposes of jurisdiction be deemed to be held in the suburbs of Calcutta as so defined.]

Act V of 1898

Ben Act II of 1866

Any such accused person may be detained, pending trial or on conviction, in any place in Calcutta, which is set apart under the provisions of this Act or the rules made thereunder, for the reception of children or young persons.]

38. (1) Whenever a person, whether charged with an offence or not, is brought before any Criminal Court otherwise than for the purpose of giving evidence, and it appears to the Court that he is a child or young person, the Court shall make due inquiry as to the age of that person and for that purpose shall

Presumption as to determination of age

¹ The sub-section in square brackets was added to section 37 by the Bengal Children (Amendment) Act 1923 (Ben. Act V of 1923), s. 4, post, p. 300.

² General Act, Vol. V.

³ Bengal Code, Vol. II.

(Chapter V.—Maintenance and treatment of persons in reformatory or industrial schools or under custody—Secs. 35, 36.)

35. Whoever—

Penalty for
abetting escape
of youthful
offender or child.

- (a) knowingly assists or induces, directly or indirectly, a youthful offender or child detained in or placed out on license from a reformatory or industrial school to escape from the school or from any person with whom he is placed out on license; or any child or young person to escape from the person to whose custody he is committed under this Act; or
- (b) knowingly harbours, conceals, or prevents from returning to school, or to any person with whom he is placed out on license, or to the person to whose custody he is committed under this Act, a youthful offender, young person or child who has so escaped, or knowingly assists in so doing;

shall be liable to imprisonment for a term which may extend to two months or to a fine not exceeding two hundred rupees, or to both.

Discharge and
transfer.

36. (1) The Local Government may, at any time, order a youthful offender or a child to be discharged from a reformatory or industrial school either absolutely or on such conditions as the Local Government approve.

(2) The Local Government may order—

- (a) a youthful offender or child to be transferred from one reformatory school to another, or from one industrial school to another;
- (b) a youthful offender under the age of fourteen years detained in a reformatory school to be transferred to an industrial school;
- (c) a young person detained in an industrial school, who is found to be exercising an evil influence over the other inmates of the school or who is guilty of a serious breach of the rules of the school or of escaping from the school, to be transferred to a reformatory school:

Provided that the whole period of the detention of the youthful offender, young person or child shall not be increased by the transfer.

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(Chapter VI—Miscellaneous.—Secs. 37, 38.)

CHAPTER VI

MISCELLANEOUS

37. (1) The Local Government may provide for the establishment for any district or other local area of one or more separate Courts for the hearing of charges against children or young persons or of applications for orders or licenses relating to a child or young person at which the attendance of the child or young person is required Juvenile Courts

(2) Where no such separate Court has been established, the Court before which a child or young person is brought shall, unless the child or young person is charged jointly with any other person not being a child or young person, whenever practicable sit either in a different building or room from that in which the ordinary sittings of the Court are held or on different days or at different times from those at which the ordinary sittings are held.

[(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898,¹ a Juvenile Court established for the suburbs of Calcutta, as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866,² or a Magistrate of the district of the 24-Parganas exercising powers under this Act, may inquire into and try in such place within Calcutta as the Local Government may direct the case of any child or young person who is accused of committing any offence within those suburbs, and such inquiry or trial shall for the purposes of jurisdiction be deemed to be held in the suburbs of Calcutta as so defined Act V of 1898
Ben Act II of 1866

Any such accused person may be detained, pending trial or on conviction, in any place in Calcutta, which is set apart, under the provisions of this Act or the rules made thereunder, for the reception of children or young persons.]

38. (1) Whenever a person, whether charged with an offence or not, is brought before any Criminal Court otherwise than for the purpose of giving evidence, and it appears to the Court that he is a child or young person, the Court shall make due inquiry as to the age of that person and for that purpose shall Presumption and determination of age

¹ This section in square brackets was added to section 37 by the Bengal Children (Amendment) Act 1913 (Ben. Act V of 1913), s. 4 post, p. 40.

² [Calcutta Code, Vol. II]

(Chapter V.—Maintenance and treatment of persons in reformatory or industrial schools or under custody—Secs. 35, 36.)

Penalty for
abetting escape
of youthful
offender or child.

35. Whoever—

- (a) knowingly assists or induces, directly or indirectly, a youthful offender or child detained in or placed out on license from a reformatory or industrial school to escape from the school or from any person with whom he is placed out on license; or any child or young person to escape from the person to whose custody he is committed under this Act; or
- (b) knowingly harbours, conceals, or prevents from returning to school, or to any person with whom he is placed out on license, or to the person to whose custody he is committed under this Act, a youthful offender, young person or child who has so escaped, or knowingly assists in so doing;

shall be liable to imprisonment for a term which may extend to two months or to a fine not exceeding two hundred rupees, or to both.

Discharge and
transfer.

36. (1) The Local Government may, at any time, order a youthful offender or a child to be discharged from a reformatory or industrial school either absolutely or on such conditions as the Local Government approve.

(2) The Local Government may order—

- (a) a youthful offender or child to be transferred from one reformatory school to another, or from one industrial school to another;
- (b) a youthful offender under the age of fourteen years detained in a reformatory school to be transferred to an industrial school;
- (c) a young person detained in an industrial school, who is found to be exercising an evil influence over the other inmates of the school or who is guilty of a serious breach of the rules of the school or of escaping from the school, to be transferred to a reformatory school:

Provided that the whole period of the detention of the youthful offender, young person or child shall not be increased by the transfer.

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(Chapter VI—Miscellaneous.—Secs 37, 38)

CHAPTER VI

MISCELLANEOUS

37. (1) The Local Government may provide for the establishment for any district or other local area of one or more separate Courts for the hearing of charges against children or young persons or of applications for orders or licenses relating to a child or young person at which the attendance of the child or young person is required Juvenile Courts

(2) Where no such separate Court has been established, the Court before which a child or young person is brought shall, unless the child or young person is charged jointly with any other person not being a child or young person, whenever practicable sit either in a different building or room from that in which the ordinary sittings of the Court are held or on different days or at different times from those at which the ordinary sittings are held.

[(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898,¹ a Juvenile Court established for the suburbs of Calcutta, as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866,² or a Magistrate of the district of the 21-Parganas exercising powers under this Act, may inquire into and try in such place within Calcutta as the Local Government may direct the case of any child or young person who is accused of committing any offence within those suburbs and such inquiry or trial shall for the purposes of jurisdiction be deemed to be held in the suburbs of Calcutta as so defined Act V of 1898
Sec 11 of 186

Any such accused person may be detained, pending trial or on conviction, in any place in Calcutta, which is set apart, under the provisions of this Act or the rules made thereunder, for the reception of children or young persons.]

38. (1) Whenever a person, whether charged with an offence or not, is brought before any Criminal Court otherwise than for the purpose of giving evidence, and it appears to the Court that he is a child or young person, the Court shall make due inquiry as to the age of that person and for that purpose shall Presumption
as to date of
age

¹ This subsection in square brackets was added to section 37 by the Bengal Children (Amendment) Act 1923 (Ben. Act V of 1923), s. 4, part p. 20a.
² General Act, Vol. V.
³ Bengal Code Vol. II

(Chapter VI.—Miscellaneous.—Secs. 46—48.)

(2) Any person so appointed shall have power to enter the institution and to make a complete inspection thereof and of all papers, registers, and accounts relating thereto.

(3) Whoever obstructs any person appointed under sub-section (1) in the discharge of his duties, or refuses or wilfully neglects to furnish him with the necessary means of making any entry or inspection, shall be punishable with fine which may extend to fifty rupees.

Procedure in
respect of bonds.

46. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898,¹ shall, so far as may be, apply to bonds taken under this Act.

Removal of
disqualification
attaching to con-
victions of
offences

47. Notwithstanding anything contained in any other law, the conviction of a child or young person shall not be regarded as a disqualification attaching to a conviction of an offence under such law.

Rules.

48. (1) The Local Government may make rules² for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Local Government may make rules—

- (a) for the establishment, certification and maintenance of reformatory and industrial schools and auxiliary homes;
- (b) for the inspection of reformatory and industrial schools and auxiliary homes and prescribing the powers and duties of the chief inspector, and other inspectors;
- (c) prescribing the powers and duties of the managers of reformatory and industrial schools;
- (d) regulating the choice of a school;
- (e) for the boarding out, licensing and supervision of children and young persons;
- (f) for the contribution by parents and other persons liable to maintain children and young persons;

¹ General Acts, Vol. V.

² For rules under section 48, see the Bengal Local Statutory Rules and Orders.

of 1922.]

(Chapter VI.—Miscellaneous—Sec 48)

- (g) regulating the disposal and after-care of the inmates of reformatory and industrial schools and for the appointment of visitors and their tenure of office,
- (h) for the management of reformatory and industrial schools and auxiliary homes,
- (i) for the education and industrial and moral training of the inmates of reformatory and industrial schools and for the credit to them of a portion of the proceeds of their work,
- (j) for the conveyance of youthful offenders and children to reformatory and industrial schools,
- (k) prescribing visits to and communication with the inmates of reformatory and industrial schools,
- (l) for the grant of permission to the inmates of reformatory and industrial schools to absent themselves for short periods,
- (m) prescribing the punishment of offences committed by the inmates of reformatory and industrial schools,
- (n) prescribing the manner in which a child or young person may be committed to suitable custody and for the supervision of such children and young persons,
- (o) for the detection of children and young persons under arrest or remanded or committed for trial; and
- (p) prescribing the procedure to be adopted in Juvenile Courts

(3) All rules made under clauses (o) and (p) of subsection (2) shall be subject to the previous approval of the Governor General in Council

(4) All rules made under this section shall be published in the *Calcutta Gazette* and, on such publication, shall have the same effect as if enacted in this Act.

[Ben. Act II of 1922.]

(Chapter VI.—Miscellaneous.—Secs. 49, 50.)

Appeal.

49. (1) An appeal from an order made by a Court under sections 25, 27, 31 or 39 shall lie,—

(a) if passed by a Magistrate other than a District Magistrate or a Presidency Magistrate, to the District Magistrate ;

(b) if passed by a District Magistrate, to the Court of Session ;

(c) if passed by a Court of Session or Court of an Additional Sessions Judge or of an Assistant Sessions Judge or by a Presidency Magistrate, to the High Court.

(2) No appeal shall lie from any order passed in any such appeal.

Revision.

50. Any order passed under the provisions of this Act and not otherwise provided for may be revised by the High Court either on the report of a Sessions Judge or of a District Magistrate, or on the application of a party interested, or on its own initiative.

BENGAL ACT No. III OF 1922.

[THE BENGAL STAMP (AMENDMENT) ACT,
1922].¹

[29th March, 1922]

*An Act to amend the Indian Stamp Act, 1899, in
its application to Bengal*

WHEREAS it is expedient to increase the revenues of Bengal and for that purpose to amend the Indian Stamp Act, 1899,² in its application to Bengal, in the manner hereinafter appearing,

Preamble

And whereas the previous sanction of the Governor General has been obtained, under section 80A, sub-section (3), of the Government of India Act, to the passing of this Act,

It is hereby enacted as follows —

1. (1) This Act may be called the Bengal Stamp (Amendment) Act, 1922

Short title, extent and commencement

(2) It extends to the whole of Bengal.

(3) It shall come into force on the first day of April, 1922.

2. The Indian Stamp Act, 1899, hereinafter referred to as the said Act, shall, in its application to Bengal, be amended³ in the manner hereinafter provided.

Application of Act

3. To clause (10) of section 2 of the said Act the following shall be added, namely — “or by Schedule IA, as the case may be.”

Amendment of clause (10) of section 2 of Act II of 1899

4. In section 3 of the said Act,—

(1) after clause (c) the following shall be inserted, namely —

Amendment of section 3

“Provided that, except as otherwise expressly provided in this Act, and notwithstanding anything contained in clauses (a), (b) or (c) of this section or in Schedule I, the amount indicated in Schedule IA to this Act shall, subject to the exemptions contained in that schedule, be the duty chargeable under this Act

¹ For Statement of Objects and Reasons, see *Calcutta Gazette*, 1922, Pt. II, p. 33, and for Proceedings in Council see the Bengal Legislative Council Proceedings, 1922, Vol. VII, No. 1, pp. 353—355, and Vol. VIII, No. 1, pp. 50—51, and 56—57, and 120—121.

² General Acts, Vol. V.

³ See Reprint

[Ben. Act III]

(Sec. 5.)

on the following instruments, mentioned in clauses (aa) and (bb) of this proviso, as the proper duty therefor respectively,—

(aa) every instrument, mentioned in Schedule IA as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed in Bengal on or after the first day of April, 1922; and

(bb) every instrument mentioned in Schedule IA as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed out of Bengal on or after the first day of April, 1922, and relates to any property situated, or to any matter or thing done or to be done in Bengal, and is received in Bengal;”

(2) after the word “Provided” the word “also” shall be inserted.

Amendment of
section 4 (1).

5. In sub-section (1) of section 4 of the said Act—

- (a) after the words and figure “in Schedule I” the following shall be inserted, namely:—
“or in Schedule IA, as the case may be;”
- (b) for the words and brackets “instead of the duty (if any) prescribed for it in that schedule” the following shall be substituted, namely:—

“if the principal instrument be chargeable with the duty prescribed in Schedule I, or with a duty of one rupee eight annas, if the principal instrument be chargeable with the

of 1922.]

(Secs. 6, 7)

duty prescribed in Schedule IA, instead of the duty (if any) prescribed for such other instrument in Schedule I or Schedule IA, as the case may be "

6. In section 6 of the said Act,—

Amendment of section 6

(1) in the first paragraph, after the words and figure "in Schedule I" the following shall be inserted, namely —

"or in Schedule IA, as the case may be ,"

(2) in the proviso, after the words "one rupee" the words "eight annas" shall be inserted, and after the words "has been paid" the following shall be added, namely.—

"unless it falls within the provisions of section 6A."

7. After section 6 of the said Act the following shall be inserted, namely.—

New section 6A

"6A (1) Notwithstanding anything contained in sections 4 or 6 or in any other law, unless it is proved that the duty chargeable under the Bengal Stamp (Amendment) Act, 1922, has been paid—

Payment of Bengal Stamp duty on copies counterparts or duplicates when such duty has not been paid on the principal or original instrument

(a) on the principal or original instrument as the case may be, or

(b) in accordance with the provisions of this section,

the duty chargeable on an instrument of sale, mortgage, or settlement other than a principal instrument or on a counterpart, duplicate or copy of any instrument shall, if the principal or original instrument would, when received in Bengal, have been chargeable, under the Bengal Stamp (Amendment) Act, 1922, with a higher rate of duty, be the duty with which the

304 THE BENGAL STAMP (AMENDMENT) ACT,
1922.

[Ben. Act III]

(Sec. 8.)

principal or original instrument would have been chargeable under section 19A.

(2) Notwithstanding anything contained in any law, no instrument, counterpart, duplicate or copy chargeable with duty under this section shall be received in evidence as properly stamped unless the duty chargeable under this section has been paid thereon :

Provided that a Court before which any such instrument, counterpart, duplicate, or copy is produced, may, in its discretion, permit the duty chargeable under this section to be paid thereon, and may then receive it in evidence."

New section
19A.

8. After section 19 of the said Act the following shall be inserted, namely :—

" 19A. Where any instrument has become chargeable in any part of British India other than Bengal with duty under this Act or under any other law for the time being in force in any part of British India and thereafter becomes chargeable with a higher rate of duty in Bengal under clause (bb) of the first proviso to section 3—

(i) notwithstanding anything contained in the first proviso to section 3, the amount of duty chargeable on such instrument shall be the amount chargeable on it under Schedule IA less the amount of duty, if any, already paid on it in British India,

(ii) in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the amount of duty chargeable on it under clause (i) in the same manner and at the same time and by the same

of 1922.]

(Secs. 9, 10.)

persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty."

9. After section 29 of the said Act the following shall be inserted, namely.— New section
29A

"29A. In applying sections 23A, 24 or 29 to any instrument chargeable with a higher rate of duty under the Bengal Stamp (Amendment) Act, 1922, the references in those sections to the several articles in Schedule I shall be deemed to be references to the corresponding articles in Schedule IA."

Application of sections 23A, 24 and 29 to instrument chargeable with duty under Schedule IA

10. In section 32 of the said Act—

Amendment of
section 32

- (1) in clause (a) of the proviso, after the words "any instrument" the words "other than an instrument chargeable with a duty under clause (bb) of the first proviso to section 3" shall be inserted;
- (2) the word "or" at the end of clause (b) of the proviso shall be omitted;
- (3) after clause (c) of the proviso the following shall be inserted, namely:—

"or

"(d) any instrument chargeable with duty under clause (bb) of the first proviso to section 3 and brought to him after the expiration of three months from the date on which it is first received in Bengal."

(Secs. 11-13.)

New section
48A.

11. After section 48 of the said Act the following shall be inserted, namely:—

“48A. Notwithstanding anything contained in this Act, no certificate or endorsement under this Act in respect of an instrument chargeable in Bengal with a higher rate of duty under the Bengal Stamp (Amendment) Act, 1922, shall be received in evidence or be in any way valid in respect of the payment of duty on such instrument or in respect of the chargeability of such instrument with duty unless the duty chargeable under the Bengal Stamp (Amendment) Act, 1922, has been paid on such instrument”.

Validity of certificate or endorsement in respect of instruments for which higher rate of duty payable in Bengal.

Amendment of
section 77.

12. At the beginning of section 77 of the said Act the following shall be inserted, namely:—

“Except for the provisions as to copies contained in section 6A.”

New Schedule
IA.

13. After Schedule I to the said Act the following shall be inserted, namely:—

“SCHEDULE IA.

Stamp duty on certain instruments under the Bengal Stamp (Amendment) Act, 1922.

(See section 3, first proviso.)

[Note.—The articles in Schedule IA are numbered so as to correspond with similar articles in Schedule I.]

Description of instrument.	Proper stamp duty.
2. ADMINISTRATION BOND, including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Savings Banks Act, 1873, section 78 of the Probate and Administration Act, 1881, or section 9 or section 10 of the Succession Certificate Act, 1889—	
(a) where the amount does not exceed Rs. 1,000 :	The same duty as a Bond (No 15) for such amount.
(b) in any other case	Ten rupees.

X
V
V
VII

of 1922.]

(Schedule IA.)

Description of instrument.	Proper stamp-duty
<p>3 ADOPTION DED that is to say any instrument (other than a will) recording an adoption, or conferring or purporting to confer an authority to adopt</p> <p>ADVOCATE See Entry as an Advocate (No 30)</p>	<p>Twenty rupees</p>
<p>4 AFFIDAVIT, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing</p>	<p>Two rupees</p>
<p><i>Exemptions</i></p> <p>Affidavit or declaration in writing when made—</p> <p>(a) as a condition of enlistment under the Indian Army Act 1911,</p> <p>(b) for the immediate purpose of being filed or used in any Court or before the officer of any Court, or</p> <p>(c) for the sole purpose of enabling any person to receive any pension or charitable allowance</p>	
<p>5 AGREEMENT OR MEMORANDUM OF AN AGREEMENT—</p> <p>(a) if relating to the sale of a bill of exchange,</p> <p>(b) if relating to the sale of a Government security or share in an incorporated company or other body corporate,</p> <p>(c) if not otherwise provided for</p>	<p>Three annas</p> <p>Subject to a maximum of fifteen rupees, one and a half annas for every Rs 10,000 or part thereof, of the value of the security or share</p> <p>Twelve annas</p>
<p><i>Exemptions</i></p> <p>Agreement or memorandum of agreement—</p> <p>(a) for or relating to the sale of goods or merchandise exclusively, not being a note or memorandum chargeable under No 43,</p> <p>(b) made in the form of tenders to the Government of India for, or relating to, any loan,</p> <p>(c) made under the European Valency Act, 1874, section 17.</p>	

(Schedule I A.)

Description of instrument.		Proper stamp-duty.																																																																																																																																																																																						
AGREEMENT TO LEASE.—See Lease (No. 35).																																																																																																																																																																																								
6. AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE, that is to say, any instrument evidencing an agreement relating to—																																																																																																																																																																																								
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or																																																																																																																																																																																								
(2) the pawn or pledge of moveable property,																																																																																																																																																																																								
where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt--																																																																																																																																																																																								
(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement—																																																																																																																																																																																								
		<div>Rs.<div><div><div>If drawn singly.</div><div>If drawn in set of two for each part of the set.</div><div>If drawn in set of three for each part of the set.</div></div><table><tr><th>Rs.</th><th>A.</th><th>P.</th><th>Rs.</th><th>A.</th><th>P.</th><th>Rs.</th><th>A.</th><th>P.</th></tr><tr><td>(i) when the amount of the loan or debt does not exceed</td><td>200</td><td>0</td><td>4</td><td>6</td><td>0</td><td>3</td><td>0</td><td>0</td><td>1</td><td>6</td></tr><tr><td>(ii) when it exceeds Rs. 200 but does not exceed</td><td>400</td><td>0</td><td>9</td><td>0</td><td>0</td><td>4</td><td>6</td><td>0</td><td>3</td><td>0</td></tr><tr><td> Ditto 400 ditto ...</td><td>600</td><td>0</td><td>13</td><td>6</td><td>0</td><td>7</td><td>6</td><td>0</td><td>4</td><td>6</td></tr><tr><td> Ditto 600 ditto ...</td><td>800</td><td>1</td><td>2</td><td>0</td><td>0</td><td>9</td><td>0</td><td>0</td><td>6</td><td>0</td></tr><tr><td> Ditto 800 ditto ...</td><td>1,000</td><td>1</td><td>6</td><td>6</td><td>0</td><td>12</td><td>0</td><td>0</td><td>7</td><td>0</td></tr><tr><td> Ditto 1,000 ditto ...</td><td>1,200</td><td>1</td><td>11</td><td>0</td><td>0</td><td>13</td><td>6</td><td>0</td><td>9</td><td>0</td></tr><tr><td> Ditto 1,200 ditto ...</td><td>1,600</td><td>2</td><td>4</td><td>0</td><td>1</td><td>2</td><td>0</td><td>0</td><td>12</td><td>0</td></tr><tr><td> Ditto 1,600 ditto ...</td><td>2,500</td><td>3</td><td>6</td><td>0</td><td>1</td><td>11</td><td>0</td><td>1</td><td>2</td><td>0</td></tr><tr><td> Ditto 2,500 ditto ...</td><td>5,000</td><td>6</td><td>12</td><td>0</td><td>3</td><td>6</td><td>0</td><td>2</td><td>4</td><td>0</td></tr><tr><td> Ditto 5,000 ditto ...</td><td>7,500</td><td>10</td><td>0</td><td>0</td><td>5</td><td>1</td><td>0</td><td>3</td><td>6</td><td>0</td></tr><tr><td> Ditto 7,500 ditto ...</td><td>10,000</td><td>13</td><td>8</td><td>0</td><td>6</td><td>12</td><td>0</td><td>4</td><td>8</td><td>0</td></tr><tr><td> Ditto 10,000 ditto ...</td><td>15,000</td><td>20</td><td>4</td><td>0</td><td>10</td><td>2</td><td>0</td><td>6</td><td>12</td><td>0</td></tr><tr><td> Ditto 15,000 ditto ...</td><td>20,000</td><td>27</td><td>0</td><td>0</td><td>13</td><td>8</td><td>0</td><td>9</td><td>0</td><td>0</td></tr><tr><td> Ditto 20,000 ditto ...</td><td>25,000</td><td>33</td><td>12</td><td>0</td><td>16</td><td>14</td><td>0</td><td>11</td><td>4</td><td>0</td></tr><tr><td> Ditto 25,000 ditto ...</td><td>30,000</td><td>40</td><td>8</td><td>0</td><td>20</td><td>4</td><td>0</td><td>13</td><td>8</td><td>0</td></tr></table></div></div>									Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	(i) when the amount of the loan or debt does not exceed	200	0	4	6	0	3	0	0	1	6	(ii) when it exceeds Rs. 200 but does not exceed	400	0	9	0	0	4	6	0	3	0	Ditto 400 ditto ...	600	0	13	6	0	7	6	0	4	6	Ditto 600 ditto ...	800	1	2	0	0	9	0	0	6	0	Ditto 800 ditto ...	1,000	1	6	6	0	12	0	0	7	0	Ditto 1,000 ditto ...	1,200	1	11	0	0	13	6	0	9	0	Ditto 1,200 ditto ...	1,600	2	4	0	1	2	0	0	12	0	Ditto 1,600 ditto ...	2,500	3	6	0	1	11	0	1	2	0	Ditto 2,500 ditto ...	5,000	6	12	0	3	6	0	2	4	0	Ditto 5,000 ditto ...	7,500	10	0	0	5	1	0	3	6	0	Ditto 7,500 ditto ...	10,000	13	8	0	6	12	0	4	8	0	Ditto 10,000 ditto ...	15,000	20	4	0	10	2	0	6	12	0	Ditto 15,000 ditto ...	20,000	27	0	0	13	8	0	9	0	0	Ditto 20,000 ditto ...	25,000	33	12	0	16	14	0	11	4	0	Ditto 25,000 ditto ...	30,000	40	8	0	20	4	0	13	8	0
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Half the duty payable on a loan or debt under clause (a) (i) or clause (a) (ii) for the amount secured.																																																																																																																																																																																								

of 1922.]

(Schedule IA.)

Description of Instrument.	Proper stamp-duty
7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, movable or immovable, where made by any writing not being a will.	Twenty five rupees
8 APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—	
(a) where the amount does not exceed Rs 1,000,	The same duty as a Bottomry Bond (No 16) for such amount.
(b) in any other case ...	Seven rupees eight annas
<i>Exemptions</i>	
(a) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law	
(b) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent	
9 APPRENTICESHIP DEED, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment, not being Articles of Clerkship (No 11)	Seven rupees eight annas
<i>Exemption.</i>	
XIV of 1850 Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by, or at the charge of, any public charity.	
10 ARTICLES OF ASSOCIATION OF A COMPANY	Fifty rupees.
<i>Exemption.</i>	
VII of 1912 Articles of any association not formed for profit and registered under section 26 of the Indian Companies Act, 1913	
See also Memorandum of Association of a Company (No 39).	

310 THE BENGAL-STAMP (AMENDMENT) ACT,
1922.

[Ben. Act III

(Schedule IA.)

Description of Instrument.	Proper stamp-duty.
<p>o o o o</p>	<p>o o</p>
<p>ASSIGNMENT. <i>See</i> Conveyance (No. 23), Transfer (No. 62), and Transfer of lease (No. 63), as the case may be.</p>	
<p>ATTORNEY <i>See</i> Entry as an Attorney (No. 30), and Power-of-attorney (No. 48).</p>	
<p>AUTHORITY TO ADOPT. <i>See</i> Adoption-deed (No. 3).</p>	
<p>12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—</p>	
<p>(a) where the amount or value of the property to which the award relates, as set forth in such award, does not exceed Rs. 1,000 ;</p>	<p>The same duty as a Bond (No. 15) for such amount.</p>
<p>(b) if it exceeds Rs. 1,000 but does not exceed Rs. 5,000 ;</p>	<p>Seven rupees eight annas.</p>
<p>and for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000.</p>	<p>Eight annas subject to a maximum of fifty rupees.</p>
<p><i>Exemption.</i></p>	
<p>Award under the Bombay District Municipal Act, 1901, section 160, or the Bombay Hereditary Offices Act, 1874, section 18.</p>	<p>Bom. Act III of 1901. Bom. Act III of 1874.</p>
<p>o o o o</p>	<p>o o</p>
<p>14. BILL OF LADING (including a through bill of lading).</p>	<p>Six annas.</p>
<p><i>Exemptions.</i></p>	<p>N.B.—If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.</p>
<p>(a) Bill of lading when the goods therein described are received at a place within the limits of any port, as defined under the Indian Ports Act, 1908, and are to be delivered at another place within the limits of the same port.</p>	<p>XV of 1908.</p>

of 1922.]

(Schedule IA)

Description of instrument.	Proper stamp-duty
14. BILL OF LADING— <i>consolid</i>	
(b) Bill of lading when executed out of British India and relating to property to be delivered in British India	
15. BOND [as defined by section 2(5)], not being a DEBENTURE (No 27), and not being otherwise provided for by this Act, or by the Court fees Act, 1870—	
where the amount or value secured does not exceed Rs 10,	Two annas
where it exceeds Rs 10 and does not exceed Rs 50,	Four annas
where it exceeds Rs 50 and does not exceed Rs 100,	Eight annas
where it exceeds Rs 100 and does not exceed Rs 200,	One rupee
where it exceeds Rs 200 and does not exceed Rs 300,	One rupee fourteen annas
where it exceeds Rs 300 and does not exceed Rs 400,	Two rupees eight annas
where it exceeds Rs 400 and does not exceed Rs 500,	Three rupees two annas
where it exceeds Rs 500 and does not exceed Rs 600;	Four rupees eight annas
where it exceeds Rs 600 and does not exceed Rs 700,	Five rupees four annas
where it exceeds Rs 700 and does not exceed Rs 800;	Six rupees.
where it exceeds Rs 800 and does not exceed Rs 900,	Six rupees twelve annas.
where it exceeds Rs 900 and does not exceed Rs 1,000,	Seven rupees eight annas
and for every Rs 500 or part thereof in excess of Rs 1,000	Three rupees twelve annas

(Schedule IA.)

Description of Instrument.	Proper stamp-duty.
<p>See Administration Bond (No. 2), Bottomry Bond (No. 16), Customs Bond (No. 26), Indemnity Bond (No. 34), Respondentia Bond (No. 56), Security Bond (No. 57).</p>	
<i>Exemptions.</i>	
Bond, when executed by—	
(a) headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act ;	
(b) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility, shall not be less than a specified sum per mensem	
<p>16. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage—</p>	
where the amount or value secured does not exceed Rs. 10 ;	Three annas.
where it exceeds Rs. 10 and does not exceed Rs. 50 ;	Six annas.
where it exceeds Rs. 50 and does not exceed Rs. 100 ;	Twelve annas.
where it exceeds Rs. 100 and does not exceed Rs. 200 ;	One rupee eight annas.
where it exceeds Rs. 200 and does not exceed Rs. 300 ;	Two rupees four annas.
where it exceeds Rs. 300 and does not exceed Rs. 400 ;	Three rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500 ;	Three rupees twelve annas.

Ben. Act III
of 1876.

of 1922.]

(Schedule IA)

Description of instrument	Proper stamp-duty
16 BOTTOMRY BOND— <i>concl'd</i>	
where it exceeds Rs 500 and does not exceed Rs 600 ,	Four rupees eight annas
where it exceeds Rs 600 and does not exceed Rs 700 ,	Five rupees four annas
where it exceeds Rs 700 and does not exceed Rs. 800 ,	Six rupees
where it exceeds Rs 800 and does not exceed Rs 900 ,	Six rupees twelve annas
where it exceeds Rs 900 and does not exceed Rs 1,000 ,	Seven rupees eight annas
and for every Rs 500 or part thereof in excess of Rs 1,000	Three rupees twelve annas.
17 CANCELLATION—Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for	Seven rupees eight annas
See also RELEASE (No 55), Revocation of Settlement (No 58-B) Surrender of Lease (No 61) Revocation of Trust (No. 64-B)	
18 CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold), granted to the purchaser of any property sold by public auction by a Civil or Revenue Court or Collector or other Revenue officer—	
(a) where the purchase money does not exceed Rs 10 ,	Three annas
(b) where the purchase money exceeds Rs 10, but does not exceed Rs 25 ,	Six annas.
(c) in any other case	The same duty as a conveyance (No 13) for a consideration equal to the amount of the purchase money only
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(Schedule I.A.)

Description of instrument.	Proper stamp-duty.
20. CHARTER PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamor) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.	Two rupees
22. COMPOSITION-DEED, that is to say, any instrument executed by a debtor, whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors.	Twelve rupees eight annas.
23. CONVEYANCE as defined by section 2(10), not being a Transfer charged or exempted under No. 62—	
where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50 ;	Twelve annas.
where it exceeds Rs. 50 but does not exceed Rs. 100 ;	One rupee eight annas.
where it exceeds Rs. 100 but does not exceed Rs. 200 ;	Three rupees.
where it exceeds Rs. 200 but does not exceed Rs. 300 ;	Four rupees eight annas.
where it exceeds Rs. 300 but does not exceed Rs. 400 ;	Six rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500 ;	Seven rupees eight annas.
where it exceeds Rs. 500 but does not exceed Rs. 600 ;	Nine rupees.
where it exceeds Rs. 600 but does not exceed Rs. 700 ;	Ten rupees eight annas.

of 1922.]

(Schedule I A.)

Description of instrument	Proper stamp-duty
23 CONVEYANCE— <i>concl'd</i>	
where it exceeds Rs 700 but does not exceed Rs 800	Twelve rupees.
where it exceeds Rs 800 but does not exceed Rs 900 ,	Thirteen rupees eight annas
where it exceeds Rs 900 but does not exceed Rs 1,000 ,	Fifteen rupees.
and for every Rs 500 or part thereof in excess of Rs 1,000	Seven rupees eight annas
<i>Exemption</i>	
Assignment of copyright under the Indian Copyright Act, 1914 section 5	III of 1914
CO PARTNERSHIP DEED— <i>See</i> Partnership (No 46)	
24 COPY OR EXTRACT, certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court fees—	
(i) if the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee ,	Twelve annas
(ii) in any other case not falling within the provisions of section 6A	One rupee eight annas
<i>Exemptions</i>	
(a) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose	
(b) Copy of or extract from, any register relating to births, baptisms, marriages, dedications, marriages divorces, deaths or burials	

316 THE BENGAL STAMP (AMENDMENT) ACT,
1922.

[Ben. Act III

(Schedule IA.)

Description of instrument.	Proper stamp-duty.
25. COUNTERPART OR DUPLICATE of any instrument, chargeable with duty and in respect of which the proper duty has been paid—	
(a) if the duty with which the original instrument is chargeable does not exceed one rupee eight annas ;	The same duty as is payable on the original.
(b) in any other case not falling within the provisions of section 6A.	One rupee eight annas.
<i>Exemption.</i>	
Counterpart of any lease granted to a cultivator, when such lease is exempted from duty.	
26. CUSTOMS BOND—	
(a) where the amount does not exceed Rs. 1,000.	The same duty as a Bottomry Bond (No. 16) for such amount.
(b) in any other case	Ten rupees.
27. DEBENTURE (whether a mortgage debenture or not), being a marketable security transferable—	
(a) by endorsement or by a separate instrument of transfer ;	The same duty as a Bottomry Bond (No. 16) for the same amount.
(b) by delivery	The same duty as a conveyance (No. 23) for a consideration equal to the face amount of the debenture.
<i>Explanation.</i> —The term “Debenture” includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.	

of 1922.]

(Schedule I A.)

Description of instrument	Proper stamp-duty
27 DEBENTURE— <i>enclid</i>	
<i>Exemption</i>	
A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage deed duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture holders provided that the debentures so issued are expressed to be issued in terms of the said mortgage deed	
See also Bond (No 15) and sections 8 and 55 DECLARATION OF A TRUST See Trust (No 64).	
DEPOSIT OF TITLE DEEDS—See Agreement relating to Deposit of title deeds, Pawn or Pledge (No 6)	
DISSOLUTION OF PARTNERSHIP—See Partnership (No 46)	
29 DIVORCE—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage	Two rupees.
DOWER—Instrument of See Settlement (No 58)	
DUPLICATE See Counterpart (No 25)	
30. ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF ANY HIGH COURT, in exercise of powers conferred on such Court by Letters Patent or by the Legal Practitioners Act, 1884—	
(a) in the case of an Advocate or Vakil,	Seven hundred and fifty rupees
(b) in the case of an Attorney	Five hundred rupees.
<i>Exemption</i>	
Entry of an Advocate, Vakil or Attorney on the roll of any High Court when he has previously been enrolled in a High Court	

(Schedule IA.)

Description of instrument.	Proper stamp-duty.
<p>31. EXCHANGE OF PROPERTY—Instrument of.</p>	<p>The same duty as a conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.</p>
<p>EXTRACT—See Copy (No. 24).</p>	
<p>32. FURTHER CHARGE—Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—</p>	
<p>(a) when the original mortgage is one of the description referred to in clause (a) of Article No. 40 (that is, with possession);</p>	<p>The same duty as a conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.</p>
<p>(b) when such mortgage is one of the description referred to in clause (b) of Article No. 40 (that is, without possession)—</p>	
<p>(i) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument ;</p>	<p>The same duty as a conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made), less the duty already paid on such original mortgage and further charge.</p>
<p>(ii) if possession is not so given</p>	<p>The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.</p>
<p>33. GIFT—Instrument of, not being a Settlement (No. 58), or Will or Transfer (No. 62).</p>	<p>The same duty as a conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument</p>
<p>HIRING AGREEMENT or agreement for service. See Agreement (No. 5).</p>	

of 1922.]

(Schedule I A.)

Description of instrument.	Proper stamp-duty
34 INDEMNITY BOND	The same duty as a Security Bond (No 57) for the same amount
INSPECTORSHIP DEED—See Composition deed (No 22)	
35 LEASE, including an under lease or sub lease and any agreement to let or sub let—	
(a) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year,	The same duty as a Bottomry Bond (No 16) for the whole amount payable or deliverable under such lease
(ii) where the lease purports to be for a term of not less than one year, but not more than five years,	The same duty as a Bottomry Bond (No 16) for the amount or value of the average annual rent reserved
(iii) where the lease purports to be for a term exceeding five years and not exceeding ten years,	The same duty as a conveyance (No 23) for a consideration equal to the amount or value of the average annual rent reserved
(iv) where the lease purports to be for a term exceeding ten years, but not exceeding twenty years,	The same duty as a conveyance (No 23) for a consideration equal to twice the amount or value of the average annual rent reserved
(v) where the lease purports to be for a term exceeding twenty years, but not exceeding thirty years,	The same duty as a conveyance (No 23) for a consideration equal to three times the amount or value of the average annual rent reserved.

(Schedule IA.)

Description of instrument.	Proper stamp-duty.
<p>35. LEASE - <i>contd.</i></p> <p>(vi) where the lease purports to be for a term exceeding thirty years, but not exceeding one hundred years ;</p> <p>(vii) where the lease purports to be for a term exceeding one hundred years or in perpetuity ;</p> <p>(viii) where the lease does not purport to be for any definite term ;</p> <p>(b) where the lease is granted for a fine or premium, or for money advanced and where no rent is reserved ;</p>	<p>The same duty as a conveyance (No. 23) for a consideration equal to four times the amount or value of the average annual rent reserved.</p> <p>The same duty as a conveyance (No. 23) for a consideration equal in the case of a lease granted solely for agricultural purposes to one-tenth and in any other case to one-sixth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.</p> <p>The same duty as a conveyance (No. 23) for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.</p> <p>The same duty as a conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.</p>

of 1922.]

(Schedule I A.)

Description of instrument	Proper stamp-duty.
<p>35 LEASE—<i>contd.</i></p> <p>(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved</p>	<p>The same duty as a conveyance (No 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered</p> <p>Provided that, in any case when an agreement to lease is stamped with the <i>ad valorem</i> stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed twelve annas</p>
<p><i>Exemptions.</i></p> <p>(a) Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink), without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees</p> <p>In this exemption a lease for the purposes of cultivation shall include a lease of lands for cultivation together with a homestead or tank.</p> <p>(b) Leases of fisheries granted under the Burma Fisheries Act 1905 or the Upper Burma Land and Revenue Regulation, 1889.</p>	

(Schedule I A.)

Description of instrument.	Proper stamp-duty.
35. LEASE— <i>concl'd.</i>	
<i>Explanation.</i> —When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses, or the owner's share of municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessee shall be deemed to be part of the rent.	
° ° ° ° °	° °
° ° ° ° °	° °
LETTER OF GUARANTEE— <i>See</i> Agreement (No. 5).	
38. LETTER OF LICENSE, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Twelve rupees eight annas.
39. MEMORANDUM OF ASSOCIATION OF A COMPANY—	
(a) if accompanied by articles of association under section 17 of the Indian Companies Act, 1913 ;	Thirty rupees.
(b) if not so accompanied ...	Eighty rupees.
<i>Exemption.</i>	
Memorandum of any association not formed for profit and registered under section 26 of the Indian Companies Act, 1913.	
40. MORTGAGE-DEED, not being an Agreement relating to Deposit of Title-deeds, Pawn or Pledge (No 6), Bottomry Bond (No. 16), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56), or Security Bond (No. 57)—	
(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given ;	The same duty as a conveyance (No. 23) for a consideration equal to the amount secured by such deed.

VII of 1913.

of 1922.]

(Schedule IA.)

Description of Instrument	Proper stamp-duty
<p>40. MORTGAGE-DEED—<i>contd</i></p> <p>(b) when possession is not given or agreed to be given as aforesaid ,</p> <p><i>Explanation</i>—A mortgagor who gives to the mortgagee a power of attorney to collect rents or a lease of the property mortgaged or part thereof is deemed to give possession within the meaning of this article</p> <p>(c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the abovementioned purpose where the principal or primary security is duly stamped—</p> <p>for every sum secured not exceeding Rs. 1,000 ,</p> <p>and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000</p>	<p>The same duty as a Bond (No 15) for the amount secured by such deed</p> <p>Twelve annas</p> <p>Ditto</p>
<p><i>Exemptions.</i></p> <p>(1) Instruments executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists Loans Act, 1884, or by their sureties as security for the repayment of such advances.</p> <p>(2) Letter of hypothecation accompanying a bill of exchange</p> <p>41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure</p>	

XIX of 1883
XII of 1884

(Schedule I A.)

Description of instrument.	Proper stamp-duty.
<p>41. MORTGAGE OF A CROP—<i>concl'd.</i></p> <p>the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—</p> <p>(a) when the loan is repayable not more than three months from the date of the instrument—</p> <p>for every sum secured not exceeding Rs. 200 ;</p> <p>and for every Rs. 200 or part thereof secured in excess of Rs. 200 ;</p> <p>(b) when the loan is repayable more than three months, but not more than eighteen months from the date of the instrument—</p> <p>for every sum secured not exceeding Rs. 100 ;</p> <p>and for every Rs. 100 or part thereof secured in excess of Rs. 100.</p>	<p>One-and-a-half annas.</p> <p>Ditto.</p> <p>Three annas.</p> <p>Ditto.</p>
<p>42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate, or entry not being a PROTEST (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.</p> <p>See also Protest of Bill or Note (No. 50).</p>	<p>Two rupees.</p>
<p>43. NOTE OR MEMORANDUM, sent by a Broker or Agent to his principal, intimating the purchase or sale on account of such principal—</p> <p>(a) of any goods exceeding in value twenty rupees ;</p> <p>(b) of any stock or marketable security exceeding in value twenty rupees.</p>	<p>Three annas.</p> <p>Subject to a maximum of fifteen rupees, two annas for every Rs. 10,000 or part thereof of the value of the stock or security.</p>
<p>44. NOTE OF PROTEST BY THE MASTER OF A SHIP—See also Protest by the Master of a Ship (No. 51).</p>	<p>One rupee.</p>

THE BENGAL STAMP (AMENDMENT) ACT, 325
1922.

of 1922.]

(Schedule IA.)

Description of Instrument.	Proper Stamp-duty
45 PARTITION—Instrument of [as defined by section (15)]	<p>The same duty as a Bond (No 15) for the amount of the value of the separated share or shares of the property</p> <p><i>V B</i>—The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated</p> <p>It is provided always that—</p> <p>(a) when an instrument of partition containing an agreement to divide property is severally executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument but shall not be less than twelve annas;</p> <p>(b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue</p> <p>(c) where a final order for effecting a partition passed by any revenue authority or any Civil Court or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed twelve annas.</p>

(Schedule IA.)

Description of instrument.	Proper stamp-duty.
41. MORTGAGE OF A CROP— <i>concl'd.</i>	
the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(a) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200 ;	One-and-a-half annas.
and for every Rs. 200 or part thereof secured in excess of Rs. 200 ;	Ditto.
(b) when the loan is repayable more than three months, but not more than eighteen months from the date of the instrument—	
for every sum secured not exceeding Rs. 100 ;	Three annas.
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	Ditto.
42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate, or entry not being a PROTEST (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	Two rupees.
See also Protest of Bill or Note (No. 50).	
43. NOTE OR MEMORANDUM, sent by a Broker or Agent to his principal, intimating the purchase or sale on account of such principal—	
(a) of any goods exceeding in value twenty rupees ;	Three annas.
(b) of any stock or marketable security exceeding in value twenty rupees.	Subject to a maximum of fifteen rupees, two annas for every Rs. 10,000 or part thereof of the value of the stock or security.
44. NOTE OF PROTEST BY THE MASTER OF A SHIP—See also Protest by the Master of a Ship (No. 51).	One rupee.

(Schedule I A.)

Description of instrument.	Proper stamp-duty.
46. PARTNERSHIP—	
A.—Instrument of—	
(a) where the capital of the partnership does not exceed Rs. 500 ;	Five rupees.
(b) in any other case	Twenty rupees.
B.—Dissolution of—	Ten rupees.
PAWN OR PLEDGE—See Agreement relating to Deposit of Title-deeds, Pawn or Pledge (No. 6).	
° ° ° ° ° ° ° °	
48. POWER-OF-ATTORNEY—[as defined by section 2 (21), not being a Proxy—	
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents ;	Twelve annas.
(b) when required in suits or proceedings under the Presidency Small Cause Court Act, 1882 ;	One rupee.
(c) when authorizing one person or more to act in a single transaction other than the case mentioned in clause (a) ;	One rupee eight annas.
(d) when authorizing not more than five persons to act jointly and severally in more than one transaction or generally ;	Seven rupees, eight annas.
(e) when authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally ;	Fifteen rupees.

of 1922.]

(Schedule IA)

Description of Instrument.	Proper stamp-duty
<p>48 POWER OF ATTORNEY—<i>concl'd</i></p> <p>(f) when given for consideration and authorising the attorney to sell any immovable property,</p> <p>(g) in any other case</p> <p><i>Explanation</i>—For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person</p> <p>• • • • •</p>	<p>The same duty as a conveyance (No 23) for the amount of the consideration</p> <p>One rupee eight annas for each person authorized</p> <p><i>V.B.</i>—The term "Registration" includes every operation incidental to registration under the Indian Registration Act, 1908. XVI of 1908</p>
<p>50 PROTEST OF BILL OR NOTE, that is to say any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note</p>	<p>Two rupees</p>
<p>51 PROTEST BY THE MASTER OF A SHIP, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such</p>	<p>Two rupees</p>
<p><i>See also</i> Note of Protest by the Master of a Ship (No 44)</p> <p>• • • • •</p> <p>• • • • •</p>	<p>• • • • •</p> <p>• • • • •</p>

(Schedule I A.)

Description of instrument.	Proper stamp-duty.
54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(a) If the consideration for which the property was mortgaged does not exceed Rs. 1,000 ;	The same duty as a conveyance (No. 23) for the amount of such consideration as set forth in the reconveyance.
(b) in any other case	Fifteen rupees.
55. RELEASE, that is to say, any instrument (not being such a release as is provided for by section 23A), whereby a person renounces a claim upon another person or against any specified property—	
(a) if the amount or value of the claim does not exceed Rs. 1,000 ;	The same duty as a Bond (No. 15) for such amount or value as set forth in the release.
(b) in any other case	Seven rupees eight annas.
56. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bottomry Bond (No. 16) for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SETTLEMENT— See Settlement (No. 58) ; Trust (No. 64).	
57. SECURITY BOND OR MORTGAGE-DEED, executed by way of security for the due execution of an office or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract—	
(a) when the amount secured does not exceed Rs. 1,000 ;	The same duty as a Bond (No. 15) for the amount secured.
(b) in any other case	Seven rupees eight annas.

of 1922.]

(Schedule IA)

Description of instrument.	Proper stamp-duty.
<p>57 SECURITY BOND OR MORTGAGE DEED—<i>concl'd</i></p> <p><i>Exemptions.</i></p> <p>Bond or other instrument, when executed—</p> <p>(a) by headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act,</p> <p>(b) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital, or any other object of public utility, shall not be less than a specified sum per incusem,</p> <p>(c) Under No 3 A of the rules made by the Governor of Bombay in Council, under section 70 of the Bombay Irrigation Act 1870,</p> <p>(d) executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists Loans Act, 1884, or by their sureties, as security for the repayment of such advances,</p> <p>(e) executed by officers of Government or their sureties to secure the due execution of an office, or the due accounting for money or other property received by virtue thereof</p>	
<p>58. SETTLEMENT—</p> <p>A—Instrument of (including a deed of dower)</p>	<p>The same duty as a Bottomry Bond (No 1b) for a sum equal to the amount or value of the property settled as set forth in such settlement.</p> <p>Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed twelve annas.</p>

n Act III
376

om Act
of 1879

X of 1883.
11 of 1884

(Schedule IA.)

Description of instrument.	Proper stamp-duty.
<p>58. SETTLEMENT—<i>concl.</i></p> <p><i>Exemptions.</i></p> <p>(a) Deed of dower executed on the occasion of a marriage between Muhammadans.</p> <p>(b) Hladassa, that is to say, any settlement of immovable property executed by a Buddhist in Burma for a religious purpose in which no value has been specified and on which a duty of Rs. 10 has been paid.</p> <p>B.—Revocation of—</p> <p><i>See also Trust (No. 64).</i></p>	<p>The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument of Revocation, but not exceeding fifteen rupees.</p>
<p>VII of 1913 59. SHARE WARRANTS to bearer issued under the Indian Companies Act, 1913.</p> <p><i>Exemptions.</i></p> <p>Share warrant when issued by a company in pursuance of the Indian Companies Act, 1913, section 43, to have effect only upon payment, as composition for that duty, to the Collector of Stamp-Revenue of—</p> <p>(a) one-and-a-half per centum of the whole subscribed capital of the company ; or</p> <p>(b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital, one-and-a-half per centum of the additional capital so issued.</p> <p>“ “ “ “ “</p> <p>“ “ “ “ “</p>	<p>One-and-a-half times the duty payable on a conveyance (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.</p>

of 1922.]

(Schedule I A.)

Description of Instrument.	Proper stamp-duty
61. SURRENDER OF LEASE—	
(a) when the duty with which the lease is chargeable, does not exceed seven rupees eight annas,	The duty with which such lease is chargeable
(b) in any other case	Seven rupees eight annas
<i>Exemption</i>	
Surrender of lease, when such lease is exempted from duty	
62. TRANSFER (whether with or without consideration)—	
(a) of shares in an incorporated company or other body corporate,	One half of the duty payable on a conveyance (No 23, for a consideration equal to the value of the share.
(b) of debentures, being marketable securities, whether the debenture is liable to duty or not except debentures provided for by section 8,	One half of the duty payable on a conveyance (No 23) for a consideration equal to the face amount of the debenture.
(c) of any interest secured by a bond, mortgage deed or policy of insurance,—	
(i) if the duty on such bond, mortgage-deed or policy does not exceed five rupees,	The duty with which such bond, mortgage-deed or policy of insurance is chargeable.
(ii) in any other case	Seven rupees eight annas.
(d) of any property under the Administrator General's Act, 1913, section 25;	Fifteen rupees.

(Schedule IA.)

Description of instrument.	Proper stamp-duty.
<p>62. TRANSFER—<i>concl'd.</i></p> <p>(e) of any trust property without consideration from one trustee to another trustee, or from a trustee to a beneficiary.</p> <p style="text-align: center;"><i>Exemptions.</i></p> <p>Transfers by endorsement—</p> <p>(a) of a bill of exchange, cheque or promissory note ;</p> <p>(b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods ;</p> <p>(c) of a policy of insurance ;</p> <p>(d) of securities of the Government of India.</p> <p>See also section 8.</p>	<p>Seven rupees ; eight annas or such smaller amount as may be chargeable under clauses (a) to (c) of this article.</p>
<p>63. TRANSFER OF LEASE by way of assignment, and not by way of under-lease.</p> <p style="text-align: center;"><i>Exemption.</i></p> <p>Transfer of any lease exempt from duty.</p>	<p>The same duty as a conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.</p>
<p>64. TRUST—</p> <p>A—DECLARATION OF—of, or concerning, any property when made by any writing not being a Will.</p>	<p>The same duty as a Bottomry Bond (No. 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding twenty-two rupees eight annas</p>

of 1922.]

(Schedule I A.)

Description of instrument.	Proper stamp-duty.
<p>64. TRUST—<i>enrolled</i></p> <p>R—REVOCATION OF—of, or concerning, any property when made by any instrument other than a Will</p> <p>See also Settlement (No. 58).</p> <p>VALUATION—See Appraisement (No 8)</p> <p>VAKIL—See Entry as a Vakil (No 30).</p>	<p>The same duty as a Bottomry Bond (No 16) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding fifteen rupees.</p>
<p>65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.</p>	<p>Six annas."</p>

BENGAL ACT No. IV OF 1922.

THE BENGAL COURT-FEES (AMENDMENT) ACT, 1922.

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15. Amendment of Schedule II, Article 17.
16. Amendment of section 71 of Act XV of 1882.
17. Exemption of certain probates, letters of administration and certificates.

BENGAL ACT No. IV OF 1922.

[THE BENGAL COURT-FEES (AMENDMENT) ACT, 1922].¹

[29th March, 1922]

An Act to amend the Court-fees Act, 1870, and the Presidency Small Cause Courts Act, 1882, with reference to the scale of court fees in Bengal

WHEREAS it is necessary to revise the scale of court-fees for Bengal, by amendment of the Court-fees Act, 1870,² and the Presidency Small Cause Courts Act, 1882,³ in their application to Bengal, in the manner hereinafter appearing,

It is hereby enacted as follows —

1. (1) This Act may be called the Bengal Court-fees (Amendment) Act, 1922

Short title
extent and
commencement

(2) It extends to the whole of Bengal

(3) It shall come into force on the first day of April, 1922

2. The Court-fees Act, 1870,² as amended by subsequent legislation, and the Presidency Small Cause Courts Act, 1882,³ as amended by subsequent legislation, shall be amended, in their application to Bengal, in the manner hereinafter provided

Application of
Act

3. In section 18 of the Court-fees Act, 1870, for the words "a fee of eight annas" the words "a fee of one rupee" shall be substituted

Amendment of
section 18 of Act
VII of 1870

4. In item vii in section 19 of the same Act for the words "one thousand rupees" the words "two thousand rupees" shall be substituted

Amendment of
section 19

5. For Article 1 in the first schedule to the same Act the following shall be substituted, namely, —

Amendment of
Schedule I,
Article 1

<p>1. Platur, written statement, pleading, [.] a set off or counter claim or memorandum of appeal (not otherwise provided for in this Act) or of cross objection presented to any Civil or Revenue Court except those mentioned in section 3</p>	<p>When the amount or value of the subject matter in dispute does not exceed seventy five rupees, for every five rupees or part thereof of such amount⁴ [10] value, and when such amount or value exceeds seventy five rupees, for every five rupees or part thereof, in excess of seventy five rupees, up to one hundred rupees,</p>
	<p>Six annas Eight annas</p>

¹For statement of Objects and Reasons, see *Calcutta Gazette* 1921, p. IV, p. 518 and for proceedings in Council, see the Bengal Legislative Council Proceedings 1922, Vol. VII, No. 1, pp. 78-82 and Vol. VII, No. 4 1922, pp. 151-155

²General Act No. VI of 1870 see also the Reprint of Act VII of 1870, as amended by Bengal Acts IV and VI of 1922.

³General Act, Vol. III

⁴See—should be omitted—clerical error

⁵See—should read "or"—clerical error

[Ben. Act IV

(Sec. 5.)

and

when such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to one hundred and fifty rupees,	One rupee ten annas.
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and

when such amount or value exceeds one hundred and fifty rupees, for every ten rupees, or part thereof, up to one thousand rupees,	One rupee two annas.
---	----------------------

and

when such amount or value exceeds one thousand rupees, for every one hundred rupees, or part thereof, in excess of one thousand rupees, up to seven thousand five hundred rupees,	Seven rupees eight annas.
---	---------------------------

and

1. <i>Plaint, etc.—contd.</i> {	when such amount or value exceeds seven thousand five hundred rupees, for every two hundred and fifty rupees, or part thereof, in excess of seven thousand five hundred rupees, up to ten thousand rupees,	Fifteen rupees.
---------------------------------	--	-----------------

and

when such amount or value exceeds ten thousand rupees, for every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees,	Twenty-two rupees eight annas.
--	--------------------------------

and

when such amount or value exceeds twenty thousand rupees, for every one thousand rupees, or part thereof, in excess of twenty thousand rupees, up to fifty thousand rupees,	Thirty rupees.
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of 1922.]

(Secs 6, 7)

1. <i>Plaint, etc — concl'd</i>	{	and	
		when such amount or value exceeds fifty thousand rupees for every five thousand rupees or part thereof in excess of fifty thousand rupees	Thirty seven rupees eight annas
		Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be ten thousand rupees	

6. In the third column in Article 6 in the same schedule to the same Act,—

*Amendment of
Schedule I, Arti-
cle 6*

(a) for the words “Four annas,” opposite clause (a) in the second column, the words “Six annas” shall be substituted, and

(b) for the words “Eight annas,” opposite the first item in clause (b) in the second column, the words “Twelve annas” shall be substituted, and for the words “One rupee,” opposite the second item in that clause, the words “One rupee eight annas” shall be substituted

7. For the entries above the proviso in the second column, and for the entries in the third column in Article 11 in the same schedule to the same Act, the following shall be substituted, namely —

*An amendment of
Schedule I Arti-
cle 11*

“When the amount or value of the property in respect of which the grant of probate or letters is made exceeds two thousand rupees, but does not exceed ten thousand rupees,	Two per centum on such amount or value.
---	---

and

when such amount or value exceeds ten thousand rupees but does not exceed fifty thousand rupees, for the portion of such amount or value which is in excess of ten thousand rupees,	Three per centum on such amount or value.
---	---

and

(Sec. 8.)

when such amount or value exceeds fifty thousand rupees, but does not exceed a lakh of rupees, for the portion of such amount or value which is in excess of fifty thousand rupees,

Four per centum on such amount or value.

and

when such amount or value exceeds a lakh of rupees, for the portion of such amount or value which is in excess of a lakh of rupees.

Five per centum on such amount or value."

Amendment of
Schedule
Article 12.

8. For the entry in the second column in Article 12 in the same schedule to the same Act, and for the first paragraph in the third column in the said Article, the following shall be substituted, namely :—

"When the amount or value of any debt or security specified in the certificate under section 8 of the Act exceeds one thousand rupees, but does not exceed ten thousand rupees,

Two per centum on such amount or value and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act

and

when such amount or value exceeds ten thousand rupees, but does not exceed fifty thousand rupees, for the portion of such amount or value which is in excess of ten thousand rupees,

Three per centum on such amount or value and four-and-a-half per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.

and

when such amount or value exceeds fifty thousand rupee, but does not exceed a lakh of rupees, for the portion of such amount or value which is in excess of fifty thousand rupees,

Four per centum on such amount or value and six per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.

and

when such amount or value exceeds a lakh of rupees, for the portion of such amount or value which is in excess of a lakh of rupees.

Five per centum on such amount or value and seven-and-a-half per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act."

of 1922.]

(Secs 9—11)

9. For the table of rates of *ad valorem* fees leviable on the institution of suits, at the end of the same schedule to the same Act, the table set forth in the schedule to this Act shall be substituted

Amendment of table of rates of *ad valorem* fees

10. In Article 1 in the second schedule to the same Act—

Amendment of Schedule II, Article 1, clauses (a), (b) and (c)

(a) in clause (a) after the words "Municipal Commissioner" in the third entry in the second column the words "or member of a District Board" shall be inserted;

(b) (i) for the words "One anna," opposite clause (a) in the second column, the words "Two annas" shall be substituted;

(ii) for the words "Eight annas," opposite clause (b) in the second column, the following shall be substituted, namely —

'In the case of a complaint or charge of an offence presented to a criminal court one rupee, and in other cases twelve annas', and

(iii) for the words "One rupee," opposite clause (c) in the second column, the words "One rupee eight annas" shall be substituted

11. For clause (d) in the second column in Article 1 in the same schedule to the same Act, and for the entries opposite that clause in the third column thereof, the following clause and entries shall be substituted, namely —

Amendment of Schedule II, Article 1, clause (d).

"(d) (i) When presented to the High Court under section 115 of the Code of Civil Procedure, 1908, for revision of an order—

(a) When the value of the suit ... Five rupees to which the order relates does not exceed Rs. 1,000;

(b) when the value of the suit .. Ten rupees exceeds Rs. 1,000

(ii) When presented to the High .. "Two rupees" Court otherwise than under that section.

[Ben. Act IV

(Secs. 12-15.)

Amendment of
Schedule
Article 10.**12.** In the third column in Article 10 in the same schedule to the same Act,—

- (1) for the words “Eight annas,” opposite clause (a) in the second column, the words “One rupee” shall be substituted; and
- (2) for the words “One rupee,” opposite clause (b) in the second column, the words “One rupee eight annas” shall be substituted.

Amendment of
Schedule
Article 11.**13.** For Article 11 in the same schedule to the same Act the following shall be substituted, namely:—

“11. Memorandum of appeal when the appeal is not from a decree or an order having the force of a decree and is presented—	(a) (i) to any revenue Court or Executive Officer other than the High Court or Chief Controlling Revenue or Executive Authority,	Eight annas.
	(ii) to any Civil Court other than a High Court,	One rupee.
	(b) to a Chief Controlling Executive or Revenue Authority,	Two rupees.
	(c) to a High Court	... Five rupees.”

Amendment of
Schedule
Article 12.**14.** Above the words “Five rupees,” where they occur in the third column, opposite Articles 12 and 13 in the same schedule to the same Act, the words “Ten rupees” shall be inserted opposite Article 12 and the bracket between Articles 12 and 13 in the second column shall be omitted.Amendment of
Schedule
Article 17.**15.** (1) The words “Ten rupees” in the third column, opposite Article 17 in the same schedule to the same Act, and the bracket opposite that article in the second column in the same schedule shall be omitted.

(2) In the third column in the said article,—

- (a) opposite entries i, ii, iv and vi, the words “Fifteen rupees” shall be inserted; and
- (b) opposite entries iii and v, the words “Twenty rupees” shall be inserted.

of 1922.]

(Secs 16-17.)

16. In section 71 of the Presidency Small Cause Courts Act, 1882¹,—

Amendment of section 71 of Act XV of 1882

(1) in clause (a) for the words "five hundred rupees" the words "fifty rupees" shall be substituted,

(2) after clause (a) the following shall be inserted, namely —

' (b) when the amount or value of the subject-matter exceeds fifty rupees, but does not exceed five hundred rupees—the sum of six rupees four annas and three annas in the rupee on the excess of such amount or value over fifty rupees,"

(3) clause (b) shall be renumbered as clause (c) and in that clause as renumbered for the words "sixty-two rupees eight annas" the words "ninety rupees ten annas" shall be substituted, and after the words "one anna" the words "six pies" shall be inserted.

17. Nothing in this Act shall apply to any probate, letters of administration or certificate in respect of which the fee payable under the law for the time being in force has been paid prior to the commencement of this Act, but which have not issued.

Exemption of certain probates, letters of administration and certificates.

¹ General Acts, Vol III.

THE SCHEDULE.

Table of rates of *ad valorem* fees leviable on the
institution of suits.

(See section 9 of the Bengal Court-fees (Amendment) Act, 1922.)

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.
Rs.	Rs.	Rs. A.
...	5	0 6
5	10	0 12
10	15	1 2
15	20	1 8
20	25	1 14
25	30	2 4
30	35	2 10
35	40	3 0
40	45	3 6
45	50	3 12
50	55	4 2
55	60	4 8
60	65	4 14
65	70	5 4
70	75	5 10
75	80	6 2
80	85	6 10
85	90	7 2
90	95	7 10
95	100	8 2
100	110	9 12
110	120	11 6
120	130	13 0
130	140	14 10
140	150	16 4
150	160	18 0
160	170	19 2
170	180	20 4
180	190	21 6
190	200	22 8
200	210	23 10
210	220	24 12
220	230	25 14
230	240	27 0
240	250	28 2
250	260	29 4
260	270	30 6
270	280	31 8

of 1922.]

(The Schedule.)

When the amount or value of the subject matter exceeds—	But does not exceed—	Proper fees
Rs.	Rs.	Rs. A.
280	290	32 10
290	300	33 12
300	310	34 11
310	320	36 0
320	330	37 2
330	340	38 4
340	350	39 6
350	360	40 8
360	370	41 10
370	380	42 12
380	390	43 14
390	400	45 0
400	410	46 2
410	420	47 4
420	430	48 6
430	440	49 8
440	450	50 10
450	460	51 12
460	470	52 14
470	480	54 0
480	490	55 2
490	500	56 4
500	510	57 6
510	520	58 8
520	530	59 10
530	540	60 12
540	550	61 14
550	560	63 0
560	570	64 2
570	580	65 4
580	590	66 6
590	600	67 8
600	610	68 10
610	620	69 12
620	630	70 14
630	640	72 0
640	650	73 2
650	660	74 4
660	670	75 6
670	680	76 8
680	690	77 10

THE BENGAL COURT-FEES (AMENDMENT) ACT, 1922.

[Ben. Act IV

(The Schedule.)

When the amount
or value of the
subject matter
exceeds—But does not
exceed—

Proper fees

Rs.	Rs.	Rs. A.
690	700	78 12
700	710	79 14
710	720	81 0
720	730	82 2
730	740	83 4
740	750	84 6
750	760	85 8
760	770	86 10
770	780	87 12
780	790	88 14
790	800	90 0
800	810	91 2
810	820	92 4
820	830	93 6
830	840	94 8
840	850	95 10
850	860	96 12
860	870	97 14
870	880	99 0
880	890	100 2
890	900	101 4
900	910	102 6
910	920	103 8
920	930	104 10
930	940	105 12
940	950	106 14
950	960	108 0
960	970	109 2
970	980	110 4
980	990	111 6
990	1,000	112 8
1,000	1,100	120 0
1,100	1,200	127 8
1,200	1,300	135 0
1,300	1,400	142 8
1,400	1,500	150 0
1,500	1,600	157 8
1,600	1,700	165 0
1,700	1,800	172 8
1,800	1,900	180 0
1,900	2,000	187 8
2,000	2,100	195 0
2,100	2,200	202 0

of 1922.]

(The Schedule.)

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee
Rs.	Rs.	Rs. A.
2,200	2,300	210 0
2,300	2,400	217 8
2,400	2,500	225 0
2,500	2,600	232 8
2,600	2,700	240 0
2,700	2,800	247 8
2,800	2,900	255 0
2,900	3,000	262 8
3,000	3,100	270 0
3,100	3,200	277 8
3,200	3,300	285 0
3,300	3,400	292 8
3,400	3,500	300 0
3,500	3,600	307 8
3,600	3,700	315 0
3,700	3,800	322 8
3,800	3,900	330 0
3,900	4,000	337 8
4,000	4,100	345 0
4,100	4,200	352 8
4,200	4,300	360 0
4,300	4,400	367 8
4,400	4,500	375 0
4,500	4,600	382 8
4,600	4,700	390 0
4,700	4,800	397 8
4,800	4,900	405 0
4,900	5,000	412 8
5,000	5,100	420 0
5,100	5,200	427 8
5,200	5,300	435 0
5,300	5,400	442 8
5,400	5,500	450 0
5,500	5,600	457 8
5,600	5,700	465 0
5,700	5,800	472 8
5,800	5,900	480 0
5,900	6,000	487 8
6,000	6,100	495 0
6,100	6,200	502 8
6,200	6,300	510 0
6,300	6,400	517 8

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ACT, 1922.

[Ben. Act IV.]

(The Schedule.)

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.	
Rs.	Rs.	Rs.	A.
6,400	6,500	525	0
6,500	6,600	532	8
6,600	6,700	540	0
6,700	6,800	547	8
6,800	6,900	555	0
6,900	7,000	562	8
7,000	7,100	570	0
7,100	7,200	577	8
7,200	7,300	585	0
7,300	7,400	592	8
7,400	7,500	600	0
7,500	7,750	615	0
7,750	8,000	630	0
8,000	8,250	645	0
8,250	8,500	660	0
8,500	8,750	675	0
8,750	9,000	690	0
9,000	9,250	705	0
9,250	9,500	720	0
9,500	9,750	735	0
9,750	10,000	750	0
10,000	10,500	772	8
10,500	11,000	795	0
11,000	11,500	817	8
11,500	12,000	840	0
12,000	12,500	862	8
12,500	13,000	885	0
13,000	13,500	907	8
13,500	14,000	930	0
14,000	14,500	952	8
14,500	15,000	975	0
15,000	15,500	997	8
15,500	16,000	1,020	0
16,000	16,500	1,042	8
16,500	17,000	1,065	0
17,000	17,500	1,087	8
17,500	18,000	1,110	0
18,000	18,500	1,132	8
18,500	19,000	1,155	0
19,000	19,500	1,177	8
19,500	20,000	1,200	0
20,000	21,000	1,230	0
21,000	22,000	1,260	0

of 1922.]

(The Schedule)

When the amount or value of the subject matter exceeds—	But does not exceed—	Proper fees	
Rs	Rs	Rs	A.
22,000	23,000	1,290	0
23,000	24,000	1,320	0
24,000	25,000	1,350	0
25,000	26,000	1,380	0
26,000	27,000	1,410	0
27,000	28,000	1,440	0
28,000	29,000	1,470	0
29,000	30,000	1,500	0
30,000	31,000	1,530	0
31,000	32,000	1,560	0
32,000	33,000	1,590	0
33,000	34,000	1,620	0
34,000	35,000	1,650	0
35,000	36,000	1,680	0
36,000	37,000	1,710	0
37,000	38,000	1,740	0
38,000	39,000	1,770	0
39,000	40,000	1,800	0
40,000	41,000	1,830	0
41,000	42,000	1,860	0
42,000	43,000	1,890	0
43,000	44,000	1,920	0
44,000	45,000	1,950	0
45,000	46,000	1,980	0
46,000	47,000	2,010	0
47,000	48,000	2,040	0
48,000	49,000	2,070	0
49,000	50,000	2,100	0
50,000	55,000	2,137	8
55,000	60,000	2,175	0
60,000	65,000	2,212	8
65,000	70,000	2,250	0
70,000	75,000	2,287	8
75,000	80,000	2,325	0
80,000	85,000	2,362	8
85,000	90,000	2,400	0
90,000	95,000	2,437	8
95,000	1,00,000	2,475	0
1,00,000	1,05,000	2,512	8
1,05,000	1,10,000	2,550	0
1,10,000	1,15,000	2,587	8
1,15,000	1,20,000	2,625	0

[Ben. Act IV]

(The Schedule.)

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.	
Rs.	Rs.	Rs.	A.
6,400	6,500	525	0
6,500	6,600	532	8
6,600	6,700	540	0
6,700	6,800	547	8
6,800	6,900	555	0
6,900	7,000	562	8
7,000	7,100	570	0
7,100	7,200	577	8
7,200	7,300	585	0
7,300	7,400	592	8
7,400	7,500	600	0
7,500	7,750	615	0
7,750	8,000	630	0
8,000	8,250	645	0
8,250	8,500	660	0
8,500	8,750	675	0
8,750	9,000	690	0
9,000	9,250	705	0
9,250	9,500	720	0
9,500	9,750	735	0
9,750	10,000	750	0
10,000	10,500	772	8
10,500	11,000	795	0
11,000	11,500	817	8
11,500	12,000	840	0
12,000	12,500	862	8
12,500	13,000	885	0
13,000	13,500	907	8
13,500	14,000	930	0
14,000	14,500	952	8
14,500	15,000	975	0
15,000	15,500	997	8
15,500	16,000	1,020	0
16,000	16,500	1,042	8
16,500	17,000	1,065	0
17,000	17,500	1,087	8
17,500	18,000	1,110	0
18,000	18,500	1,132	8
18,500	19,000	1,155	0
19,000	19,500	1,177	8
19,500	20,000	1,200	0
20,000	21,000	1,230	0
21,000	22,000	1,260	0

of 1922.]

(The Schedule.)

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fees.
Rs.	Rs.	Rs. A.
22,000	23,000	1,290 0
23,000	24,000	1,320 0
24,000	25,000	1,350 0
25,000	26,000	1,380 0
26,000	27,000	1,410 0
27,000	28,000	1,440 0
28,000	29,000	1,470 0
29,000	30,000	1,500 0
30,000	31,000	1,530 0
31,000	32,000	1,560 0
32,000	33,000	1,590 0
33,000	34,000	1,620 0
34,000	35,000	1,650 0
35,000	36,000	1,680 0
36,000	37,000	1,710 0
37,000	38,000	1,740 0
38,000	39,000	1,770 0
39,000	40,000	1,800 0
40,000	41,000	1,830 0
41,000	42,000	1,860 0
42,000	43,000	1,890 0
43,000	44,000	1,920 0
44,000	45,000	1,950 0
45,000	46,000	1,980 0
46,000	47,000	2,010 0
47,000	48,000	2,040 0
48,000	49,000	2,070 0
49,000	50,000	2,100 0
50,000	55,000	2,137 8
55,000	60,000	2,175 0
60,000	65,000	2,212 8
65,000	70,000	2,250 0
70,000	75,000	2,287 8
75,000	80,000	2,325 0
80,000	85,000	2,362 8
85,000	90,000	2,400 0
90,000	95,000	2,437 8
95,000	1,00,000	2,475 0
1,00,000	1,05,000	2,512 8
1,05,000	1,10,000	2,550 0
1,10,000	1,15,000	2,587 8
1,15,000	1,20,000	2,625 0

[Ben. Act IV of 1922.]

(The Schedule.)

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fees.	
Rs.	Rs.	Rs.	A.
1,20,000	1,25,000	2,662	8
1,25,000	1,30,000	2,700	0
1,30,000	1,35,000	2,737	8
1,35,000	1,40,000	2,775	0
1,40,000	1,45,000	2,812	8
1,45,000	1,50,000	2,850	0
1,50,000	1,55,000	2,887	8
1,55,000	1,60,000	2,925	0
1,60,000	1,65,000	2,962	8
1,65,000	1,70,000	3,000	0
1,70,000	1,75,000	3,037	8
1,75,000	1,80,000	3,075	0
1,80,000	1,85,000	3,112	8
1,85,000	1,90,000	3,150	0
1,90,000	1,95,000	3,187	8
1,95,000	2,00,000	3,225	0
2,00,000	2,05,000	3,262	8

and the fee increases at the rate of thirty-seven rupees eight annas for every five thousand rupees, or part thereof, up to a maximum fee of 10 thousand rupees, for example—

Rs.	Rs.	A.
3,00,000	4,012	8
4,00,000	4,762	8
5,00,000	5,512	8
6,00,000	6,262	8
7,00,000	7,012	8
8,00,000	7,762	8
9,00,000	8,512	8
10,00,000	9,262	8
11,00,000	10,000	0

BENGAL ACT No. V OF 1922.
THE BENGAL AMUSEMENTS TAX
ACT, 1922.

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BENGAL ACT No. V OF 1922.
(THE BENGAL AMUSEMENTS TAX
ACT, 1922).¹

[29th March 1922]

An Act to make an addition to the public revenue of Bengal and for that purpose to impose a tax on entertainments and other amusements and on certain forms of betting

WHEREAS it is necessary to make an addition to the public revenue of Bengal and for that purpose to impose a tax on entertainments and other amusements and on certain forms of betting,

Preamble

It is hereby enacted as follows —

1. (1) This Act may be called the Bengal Amusements Tax Act, 1922

Short title
extent and
commencement

(2) It extends to the whole of Bengal

(3) It shall come into force on the first day of April, 1922, in—

(a) Calcutta, as defined in clause (7) of section 3 of the Calcutta Municipal Act, 1899²,

(b) (i) Fort William, excepting the portion thereof included within the ramparts of the Fort,

(ii) the Esplanade, and

(iii) that part of Hastings north of the south edge of Clyde Row and Strand Road to the river bank, and

(c) the Municipalities of Howrah, Cossipore, Chitpur, Maniktola, Garden Reach, Tollygunge, Dacca and Darjeeling, the Barinackpore Cantonment and the South Suburban Municipality

(4) The Local Government may, by notification in the *Calcutta Gazette*, bring this Act or any portion thereof into force in such other areas in Bengal at such time as shall be specified in such notification

Provided that no notification under this sub-section shall be published in respect of any area included in a military cantonment without the previous sanction of the Governor General in Council.

¹For Statement of Objects and Reasons see *Calcutta Gazette*, 1922, Pt IV, p 10 and for Proceedings in Council see the Bengal Legislative Council Proceedings, 1922 Vol VII, No 1, pp 163-172, and 183-213, and 241-286, and Vol VII, No 4, pp 261-319

²Bengal Act III of 1899 has been repealed and re-enacted by the Calcutta Municipal Act, 1923 (Ben Act III of 1923), *post*, p 425

(Chapter I.—*Entertainments Tax*.—Secs. 2, 3.)**CHAPTER I.****Entertainments Tax.**

Definitions.

2. In this chapter, unless there is anything repugnant in the subject or context,—

- (1) “admission” includes admission as a spectator or as one of an audience, and admission for the purpose of amusement by taking part in an entertainment;
- (2) “admission to an entertainment” includes admission to any place in which the entertainment is held;
- (3) “agriculture” includes horticulture and live-stock breeding;
- (4) “entertainment” includes any exhibition, performance, amusement, game or sport to which persons are admitted for payment;
- (5) “live-stock” includes animals of every description;
- (6) “notification” means a notification published in the *Calcutta Gazette*;
- (7) “payment for admission” includes any payment made by a person who having been admitted to one part of a place of entertainment is subsequently admitted to another part thereof, for admission to which a payment involving a tax or a higher rate of tax is required, and any payment for seats or other accommodation in a place of entertainment;
- (8) “proprietor” in relation to any entertainment includes any person responsible for the management thereof; and
- (9) “society” includes a company, institution, club or other association of persons by whatever name called.

Tax on pay-
ments for ad-
mission to
entertainments.

3. (1) Except as otherwise expressly provided in this Act there shall as from the first day of April, 1922, be charged, levied, and paid to the Government of Bengal a tax, hereinafter referred to as the entertainments tax, at the rate of twenty-five per centum on all payments for admission to any entertainment.

of 1922.]

(Chapter I—Entertainments Tax—Sec 3)

(2) The entertainments tax shall not be leviable where the payment for admission is not more than eight annas

(3) The rate of the entertainments tax in the case of payments for admission to any theatre, cinematograph exhibition, or circus or any class of entertainment to which the Local Government may apply this sub-section, on the ground that the rate specified in sub-section (1) would impose an undue burden on the industry involved, shall be as follows namely—

Where the payment excluding the amount of the tax—

- | | |
|--|------------------------|
| (i) is more than eight annas but is less than twelve annas | one anna, |
| (ii) is twelve annas or more but is less than one rupee eight annas | two annas, |
| (iii) is one rupee eight annas or more but is less than two rupees eight annas | four annas, |
| (iv) is two rupees eight annas or more but is less than three rupees eight annas | eight annas, |
| (v) is three rupees eight annas or more but is less than four rupees eight annas | twelve annas, |
| (vi) is four rupees eight annas or more but is less than six rupees eight annas | one rupee, |
| (vii) is six rupees eight annas or more but is less than nine rupees eight annas | one rupee eight annas, |

(Chapter I.—Entertainments Tax.—Sec. 4.)

- (viii) is nine rupees eight annas or more but it is not more than ten rupees ... two rupees,
- (ix) is more than ten rupees, for the first ten rupees and for every ten rupees or part of ten rupees over ten rupees ... two rupees.

(4) The Local Government may, on the application of a proprietor of any entertainment in respect of which the entertainments tax is payable under subsection (1), allow the proprietor on such conditions as they may prescribe to pay the amount of the tax due by means of a consolidated payment of twenty per centum of the gross sum received by the proprietor on account of payments for admission to the entertainment and on account of the tax.

(5) The entertainments tax, in the case of theatres, cinematograph exhibitions and circuses and any other class of entertainment which the Local Government may direct, shall be charged, levied and paid with effect from the first day of October, 1922.

Admission to
entertainments.

4. No person shall be admitted for payment to any entertainment where the payment is subject to the entertainments tax, except—

- (a) with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not before used) issued by the Local Government for the purpose of revenue and denoting that the proper entertainments tax has been paid,
- (b) in special cases with the approval of the Local Government, through a barrier which, or by means of a mechanical contrivance which, automatically registers the number of persons admitted,

unless the proprietor of the entertainment has made arrangements approved by the Local Government for furnishing returns of the payments for admission to the entertainment and has given security up to an amount and in a manner approved by the Local Government for the payment of the entertainments tax.

of 1922.]

(Chapter I—*Entertainments Tax*—Secs 5-7)

5. If any person is admitted for payment to any place of entertainment and the provisions of section 4 are not complied with, the proprietor of the entertainment to which such person is admitted shall, on conviction before a Magistrate, be liable in respect of each such offence to a fine not exceeding five hundred rupees, and shall in addition be liable to pay any tax which should have been paid

Penalty for non payment of tax

6. The provisions of sections 4 and 5 shall not apply to any entertainment in respect of which a consolidated payment is made under section 3, sub-section (4)

Sections 4 and 5 not to apply in certain cases

7. (1) The entertainments tax shall be charged in respect of each person admitted for payment, and, in the case of admission by stamped ticket, shall be paid by means of the stamp on the ticket and, in the case of admission otherwise than by stamped ticket, shall be calculated and paid on the number of admissions

Manner of payment

(2) The entertainments tax, in the case of admission otherwise than by stamped ticket, shall be recoverable from the proprietor

(3) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any society, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, or for any privilege, right, facility or thing combined with the right of admission to any entertainment, or involving such right of admission without further payment or at a reduced charge, the entertainments tax shall be paid on the amount of the lump sum, but where the Local Government are of opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment, or covers admission to an entertainment during any period for which the tax has not been in operation the tax shall be charged on such an amount as appears to the Local Government to represent the right of admission to entertainments in respect of which the entertainments tax is payable.

(Chapter I.—Entertainments Tax.—Secs. 8, 9.)

Exemptions.

8. (1) the entertainments tax shall not be charged on payments for admission to any entertainment where the Local Government are satisfied—

- (a) that the whole of the takings thereof are devoted to philanthropic, religious or charitable purposes without any charge on the takings for any expenses of the entertainment; or
- (b) that the entertainment is of a wholly educational character (any question on that point to be determined in the case of difference by the Local Government in the Department of Education); or
- (c) that the entertainment is provided for partly educational or partly scientific purposes by a society, not conducted or established for profit; or
- (d) that the entertainment is provided by a society which is established solely for the purpose of promoting the interest of the industry of agriculture, or the manufacturing industry, or some branch thereof, or the public health, and which is not conducted for profit, and consists solely of an exhibition of the products of the industry, or branch thereof, for promoting the interests of which the society exists or of materials, machinery, appliances, or foodstuffs, used in the production of those products, or of articles which are of material interest in connection with the questions relating to the public health, as the case may be.

(2) The Local Government may, by general or special order, exempt any entertainment or class of entertainments from liability to the entertainments tax.

Refunds in
certain circum-
stances.

9. Where the Local Government are satisfied that the whole of the net proceeds of an entertainment are devoted to philanthropic, religious or charitable purposes, and that in calculating the net proceeds not more than twenty-five per cent. of the gross proceeds have been deducted on account of the expenses of the entertainment, they shall repay to the proprietor the amount of the entertainments tax paid in respect of the entertainment.

of 1922.]

(Chapter I — Entertainments Tax — Secs 10-12)

10. (1) Any sum due on account of the entertainments tax shall be recoverable by the Local Government as a public demand

Recoveries

(2) Any fine imposed under this chapter shall be recovered in the manner provided in the Code of Criminal Procedure, 1898,¹ for the recovery of fines

11. (1) Any officer authorized by the Local Government for the purpose may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment at any reasonable times, with a view to seeing whether the provisions of this chapter or any rules made thereunder are being complied with

Inspection

(2) If any person prevents or obstructs the entry of any officer so authorized, he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be liable on conviction before a Magistrate to a fine not exceeding two hundred rupees

(3) Every officer authorized under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code²

et XLV of

12. (1) The Local Government may make rules for securing the payment of the entertainments tax and generally for carrying into effect the provisions of this chapter, and in particular—

Rules

- (a) for the supply and use of stamps or stamped tickets, or for the stamping of tickets sent to be stamped, and for securing the defacement of stamps when used,
- (b) for the use of tickets covering the admission of more than one person and the calculation of the tax thereon, and for the payment of the tax on the transfer from one part of a place of entertainment to another and on payments for seats or other accommodation,
- (c) for controlling the use of barriers or mechanical contrivances (including the prevention of the use of the same barrier or mechanical contrivance for payments of a different amount), and for securing proper records of admission by means of barriers or mechanical contrivances,

¹ General Acts, Vol V² General Acts, Vol I

(Chapter I.—*Entertainments Tax*.—Chapter II—*Taxes on certain forms of betting*.—Secs. 13, 14.)

- (d) for the checking of admissions, the keeping of accounts and the furnishing of returns by the proprietors of entertainments to which the provisions of section 3, sub-section (4), are applied or in respect of which the arrangements approved by the Local Government for furnishing returns are made under section 4 ;
- (e) for the renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund under this chapter or under the rules made thereunder ;
- (f) for the keeping of accounts of all stamps used under this chapter ; and
- (g) for the presentation and disposal of applications for exemption from payment of the entertainments tax, or for the refund thereof, made under the provisions of this chapter.

(2) If any person acts in contravention of, or fails to comply with, any such rules, he shall, on conviction before a Magistrate, be liable in respect of each offence to a fine not exceeding five hundred rupees.

13. The Local Government may, by notification in the *Calcutta Gazette*, delegate all or any of their powers under this chapter, except those conferred upon them by sub-section (4) of section 1, by section 12, and by this section, to any person or to any authority subordinate to the Local Government.

Power to Local Government to delegate certain powers.

CHAPTER II.

Taxes on certain forms of betting.

Definitions.

14. In this chapter—

(1) “backer” includes any person with whom a licensed bookmaker bets ;

(2) “bet” includes “wager” and “betting” includes wagering ;

(3) “licensed bookmaker” means any person who carries on the business or vocation of or acts as a bookmaker or turf commission agent under a license or permit issued by any racing club or by the stewards thereof to enable him to carry on his business or vocation under the provisions of the Bengal Public Gambling (Amendment) Act, 1913,¹ as specified in the license or permit ;

¹ Bengal Code, Vol. III.

of 1922.]

(Chapter II—*Taxes on certain forms of betting—
Secs 15-17*)

(4) “prescribed” means prescribed by this chapter or by the rules made thereunder,

(5) “racing club” includes a club, association, society or body of persons corporate or incorporate—

(a) formed for the purpose of promoting horse-racing or pony-racing or for holding race-meetings, or

(b) conducting or controlling such meetings;

(6) “totalisator” means a totalisator, in an enclosure which the stewards controlling a race-meeting have set apart in accordance with the Bengal Public Gambling (Amendment) Act, 1913,¹ and includes any instrument, machine, or contrivance known as the totalisator, or any other instrument, machine, or contrivance of a like nature or any scheme for enabling any number of persons to make bets with one another on the like principles

15. There shall as from the second day of April, 1922, be charged, levied and paid to the Government of Bengal out of all monies paid into any totalisator by way of stakes or bets, a tax on backers, hereinafter referred to as the totalisator tax, amounting to four per cent of every sum so paid, and four per cent of every sum so paid into a totalisator shall be deemed to have been paid by the backer on account of the totalisator tax, and shall be received by the stewards of the race-meeting on behalf of Government

Tax on total
isators and
payment thereof

16. The stewards of a race-meeting shall, at such times and in such manner as may be prescribed, forward to the prescribed officer a return stating the total amount of the monies paid into the totalisator at the meeting, and shall at the prescribed time make over to the prescribed officer the amount of the tax for that meeting

Procedure for
making over total
isator tax to
Government

17. (1) The stewards of a race-meeting shall keep accounts in the prescribed form of all monies paid into the totalisator at that meeting

Accounts of

*(Chapter II.—Taxes on certain forms of betting.—
Secs. 18-20.)*

(2) Every person having the custody or control of any such accounts shall, when required in writing by an officer empowered in this behalf by the Local Government, permit such officer, or an officer authorized in writing by him in this behalf, to inspect and take copies of them.

Betting tax.

18. (1) There shall as from the second day of April, 1922, be charged, levied and paid to the Government of Bengal out of all monies paid or agreed to be paid by a licensed bookmaker to a backer in consequence of the winning by the backer of a bet made in an enclosure set apart under the provisions of the Bengal Public Gambling (Amendment) Act, 1913,¹ on any race, a tax on backers, hereinafter referred to as the betting tax, amounting to four *per cent.* of all such monies.

(2) The betting tax shall be deducted or collected by the licensed bookmaker from such monies at the time when the money is paid to the backer, or in the case of credit bets at such time as may be prescribed, and shall be deemed to have been paid by the backer on account of the tax, and shall be retained by the licensed bookmaker on behalf of Government.

Procedure for
making over
betting tax to
Government.

19. All sums retained on account of the betting tax shall be made over by the licensed bookmaker, by whom they have been retained, to the prescribed officer at such times and in such manner as may be prescribed.

Accounts
betting tax.

20. (1) The stewards of a race-meeting shall, at such times and in such manner as may be prescribed, forward to the prescribed officer returns setting out the names of the bookmakers licensed or permitted by them to carry on the business or vocation of a bookmaker at that meeting.

(2) All licensed bookmakers shall keep accounts of all sums paid or agreed to be paid by them to backers in satisfaction of bets, in such manner as may be prescribed, and shall, when required in writing by an officer empowered in this behalf by the Local Government, permit such officer, or an officer authorized in writing by him in this behalf, to inspect and take copies of such accounts.

of 1922.]

(Chapter II—Taxes on certain forms of betting—
Secs 21-23)

21. (1) The totalisator tax payable under section 15 shall be recoverable as a public demand from the racing club conducting the meeting, and any portion of such tax which is not so recovered shall also be recoverable as a public demand from the stewards of the race meeting jointly and severally

Methods of recovery of totalisator tax and betting tax

(2) All moneys which a licensed bookmaker is liable to make over to the prescribed officer under section 19 shall be recoverable from the licensed bookmaker as a public demand

22. The Local Government may make rules for securing the payment of the totalisator tax and the betting tax the production and inspection of accounts kept under this chapter and generally for carrying into effect the provisions of this chapter, and for dealing with such matters as are therein directed to be prescribed

Rules

23. In the definition of “gaming” in—

Amendment of definition of gaming

(i) section 59 of the Howrah Offences Act, 1857¹,

(ii) section 3 of the Calcutta Police Act, 1866² and

(iii) section 1 of the Bengal Public Gambling Act, 1867³,

as amended by section 2 of the Bengal Public Gambling (Amendment) Act, 1913³,—

(a) the word “and” in clause (a) shall be omitted, and

(b) after clause (b) the following shall be inserted, namely—

“and

(c) (i) with a licensed bookmaker, or

(ii) by means of a totalisator

as defined in section 14 of the Bengal Amusements Tax Act, 1922”

BENGAL ACT No. VI OF 1922.

[THE BENGAL COURT-FEES (AMENDMENT
No. II) ACT, 1922].¹

[26th July 1922]

*An Act further to amend the Court-fees Act 1870,
with reference to the scale of Court-fees in Bengal*

WHEREAS it is necessary further to amend the
Court fees Act, 1870² in its application to Bengal in
the manner hereinafter appearing

It is hereby enacted as follows —

1. (1) This Act may be called the Bengal Court fees (Amendment No. II) Act, 1922 Short title and extent

(2) It extends to the whole of Bengal

2. In Article 1 in the first schedule to the Court-fees Act, 1870³ [as amended by the Bengal Court-fees (Amendment) Act 1922], hereinafter referred to as the said Act — Amendment of Article 1 in the first schedule to the Court fees Act 1870 as amended by the Bengal Court fees (Amendment) Act, 1922

(a) the commas before and after the word “pleading” in the first column shall be omitted,

(b) for the words “in value” in the first entry in the second column the words ‘or value’ shall be substituted, and

(c) the word ‘and’ between the third and fourth entries in the second column shall be omitted

3. (1) In the second column of Articles 11 and 12 in the first schedule to the said Act — Amendment of Articles 11 and 12 in the same schedule

(a) for the words “but does not exceed ten thousand rupees” the words ‘on such amount or value up to ten thousand rupees’ shall be substituted,

(b) for the words “for the portion”, wherever they occur, the words ‘on the portion’, shall be substituted,

¹Reasons: see Calcutta Gazette, 1922, Pt. IV, see the Bengal Legislative Council Proceed

²Reprint of Act VII of 1870, as amended by

366 THE BENGAL COURT-FEES (AMENDMENT NO. II)
ACT, 1922.

[Ben. Act VI of 1922.]

(Sec. 4.)

(c) the words “but does not exceed fifty thousand rupees” and the words “but does not exceed a lakh of rupees” shall be omitted, and

(d) after the words “in excess of ten thousand rupees” the words “up to fifty thousand rupees” and after the words “in excess of fifty thousand rupees” the words “up to a lakh of rupees” shall be added.

(2) In the third column of Article 11 in the first schedule to the said Act, the words “on such amount or value”, wherever they occur, shall be omitted.

Date of effect,
of amendments.

4. The amendments set forth in sections 2 and 3 shall be deemed to have been made with effect from the commencement of the Bengal Court-fees (Amendment) Act, 1922.

of

BENGAL ACT No. VII OF 1922.

[THE BENGAL EXCISE (AMENDMENT) ACT,
1922.]¹

[30th August, 1922.]

An Act further to amend the Bengal Excise Act, 1909.

WHEREAS it is expedient further to amend the Bengal Excise Act, 1909,² in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. This Act may be called the Bengal Excise (Amendment) Act, 1922. Short title.

2. In clause (c) of sub-section (1) of section 51 of the Bengal Excise Act, 1909,³ for the words "fourteen years" the words "sixteen years" shall be substituted. Amendment of section 51 of Bengal Act V of 1909

¹ For Statement of Objects and Reasons, see *Calcutta Gazette*, 1922, Pt. IV, p 110; and for Proceedings in Council, see the Bengal Legislative Council Proceedings, 1922, Vol IX, pp 81-82

² Bengal Code, Vol III

BENGAL ACT No. VIII OF 1922.

[THE BENGAL VILLAGE-CHAUKIDARI
(AMENDMENT) ACT, 1922.]¹

[11th October, 1922]

An Act further to amend the Village chaukidari Act,
1870

VI WHEREAS it is expedient further to amend the Village-chaukidari Act 1870,² in the manner herein-
after appearing,

It is hereby enacted as follows —

1. This Act may be called the Bengal Village-
chaukidari (Amendment) Act, 1922

Short title

2. For section 12 of the Village-chaukidari Act 1870,² the following shall be substituted namely —

New section
substituted for
section 12 of
Bengal Act VI of
1870

“12 The salaries³ of *chaukidars* appointed for
any village shall be
determined by the
panchayat of the village subject to the
approval of the District Magistrate”

(Salaries of *chaikidars*)

3. After section 12 of the said Act, the following
shall be added, namely —

Insertion of
new section 12A

“12A Notwithstanding anything contained in
section 12, the salaries
of *chaukidars* as in
force on the 1st day of
September, 1922, shall continue to be paid
until altered under the provisions of that
section”

Saving of existing salaries
of *chaikidars*

4. In the proviso to section 15 of the said Act, for
the words “one rupee” the words “one rupee eight
annas” shall be substituted

Amendment of
section 15

¹ For Statement of Objects and Reasons see *Calcutta Gazette*, 1922, Pt IV, p 100
and for Proceedings in Council, see the Bengal Legislative Council Proceedings, 1922,
Vol VII No 3 pp 164-165, and Vol VIII, pp 132-143 and Vol IX, pp 83-110,
and 379-380

² Bengal Code, Vol II

BENGAL ACT No. 1 OF 1923.

(THE GOONDAS ACT, 1923.)¹

[28th February, 1923]

An Act to provide for the control of certain goondas residing in, or frequenting Calcutta or the neighbourhood of Calcutta, and for their removal elsewhere

WHEREAS it is expedient to provide for the control of certain goondas within Calcutta and the neighbourhood of Calcutta and to provide for their removal elsewhere in certain circumstances,

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act,

It is hereby enacted as follows —

1. (1) This Act may be called the Goondas Act, 1923 Short title and local extent

(2) It extends to the whole of Bengal

2. In this Act—

Definitions

(1) "Bengal" means the Presidency of Bengal, as constituted on the first day of April, 1912¹,

(2) "Calcutta" means the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866,² together with the suburbs of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866,³ and the Port of Calcutta as defined by notification under section 5 of the Indian Ports Act, 1908,⁴

(3) "Commissioner of Police" means the officer vested with the administration of police in Calcutta under the Calcutta Police Act, 1866,⁵ the Calcutta Suburban Police Act, 1866,⁶ the Calcutta Port Act, 1890,⁷ and any Act amending any of these Acts,

¹ For Statement of Objects and Reasons, see *Calcutta Gazette*, 1923, Pt IV p 114 and for Proceedings in Council, see the Bengal Legislative Council Proceedings, 1922, Vol X, pp 103—108, and 140—146, and see also Vol XI, No 1, 1923, pp 375—427, and pp 433—468

² See Schedule A to the Bengal, Bihar and Orissa and Assam Laws Act, 1911 (Act VII of 1912), Bengal Code, Vol I

³ Bengal Code, Vol II

⁴ General Acts, Vol VI

⁵ General Acts, Vol IV

et IV

et II

1908

et III

(Sec. 3.)

(4) "goonda" includes a hooligan or other rough;

(5) "neighbourhood of Calcutta" means the areas included in—

(a) the police stations of Baranagore, Nawapara, Barrackpore, Dum-Dum, Tollyganj, Behala, Metiabruz, Maheshtolla, Bhangore, Tittaghar, Khardah and Budge-Budge in the district of the 24-Parganas;

(b) the police-stations of Howrah, Sibpore, Malipanchghora, Golabaree, Lilooah, Bally and Bantra in the district of Howrah; and

(c) any other area which is included within the districts of the 24 Parganas, Howrah or Hooghly, and which the Local Government by notification in the *Calcutta Gazette* may include within this definition;

(6) "Presidency area" means Calcutta together with that portion of the district of the 24-Parganas which is not included in Calcutta as defined in this section, and the districts of Howrah and Hooghly.

Report by
Commissioner of
Police or District
Magistrate.

3. (1) Whenever it shall appear to the Commissioner of Police, that any person—

(a) is a goonda, or a member of a gang or body of goondas, and

(b) is residing within or habitually visiting or frequenting Calcutta,

and that such person or that such gang or body is committing or has committed or is about to commit or is assisting or abetting the commission of—

(i) a non-bailable offence against person or property, or

(ii) the offence of criminal intimidation, or

(iii) an offence involving a breach of the peace,

of 1923.]

(Sec 4)

so as to be a danger to, or cause or to be likely to cause, alarm to, the inhabitants or to any section of the inhabitants of Calcutta, the Commissioner of Police shall make a report to the Local Government with a recommendation that such person or gang or body of persons be dealt with under the provisions of this Act

(2) The same powers and duties as are conferred and imposed by sub-section (1) on the Commissioner of Police in respect of persons or gangs or bodies of persons residing in, or habitually frequenting Calcutta, are conferred and imposed on the District Magistrate having jurisdiction in any local area, which is outside Calcutta but is included in the neighbourhood of Calcutta, in respect of all persons or gangs or bodies of persons residing within or habitually visiting or frequenting such area, who appear to such District Magistrate to be goondas or members of a gang of goondas and to be committing, or to have committed or to be about to commit, or to be assisting or abetting the commission of, any of the offences set forth in clauses (i), (ii) or (iii) of sub-section (1) so as to be a danger to, or to cause or to be likely to cause, alarm to, the inhabitants or to any section of the inhabitants of such area

4. (1) On receipt of the report of the Commissioner of Police or of the District Magistrate, as the case may be, the Local Government may make an order for the issue of a warrant for the arrest of the person against whom the report has been made.

Issue of
warrant
on receipt of report

(2) The warrant shall be in such a form as shall be prescribed by the Local Government by notification in the *Calcutta Gazette* and shall be issued by a Secretary to the Local Government and shall contain a statement of the heads of the charges made against such person in the report, and shall further require such person to submit by petition to the advising Judges appointed under sub-section (1) of section 3 by such date as may be specified in the warrant any representation that he may desire to make

(3) The officer by whom such warrant is issued shall have—

- (i) for the enforcement of the attendance of the person, against whom the warrant is issued, at such place and at such time or times as may be specified therein (and thereafter as

(Sec. 5.)

such officer may direct) in order to communicate to such person the final order of the Local Government made under section 6, and

- (ii) for the forfeiture, under section 514 of the Code of Criminal Procedure, 1898,¹ of any bond, executed for the attendance of such person at such place and at such time or times,

all the powers of a Presidency Magistrate under the Code of Criminal Procedure, 1898¹; and the warrant shall for the purposes set forth in clauses (i) and (ii) be deemed to be a warrant issued by a Presidency Magistrate, for the arrest of such person to answer a charge in respect of a bailable offence committed by him within the jurisdiction of such Magistrate, and such person, in default of sufficient security being furnished, may, unless such officer otherwise directs, be detained in custody until the final order of the Local Government under section 6 is communicated to him.

Local Government to place report before advising Judges.

5. (1) After issue of the warrant under section 4, the Local Government shall forthwith cause the report of the Commissioner of Police or of the District Magistrate, as the case may be, with all material facts and circumstances in their possession relevant to the same to be placed before two advising Judges, of whom one shall be a District and Sessions Judge of Alipur and the other a District and Sessions Judge who has served as such for a period of not less than five years.

(2) The advising Judges shall consider in camera the report and the other facts and circumstances, if any, adduced before them by the Local Government, and any representation, submitted to them by the person against whom the report has been made within the time fixed by section 4 or such further time as they may allow, and shall call for such further information, if any, and may examine such witnesses, if any, as shall appear to them to be necessary to enable them to tender their advice on the report. They shall also give to the person against whom the report has been made, if he so desires, an opportunity of appearing in person before them to offer

of 1923.]

(Sec 6)

his explanation, and may at the instance of that person require the attendance of any other person, whose statement may support that explanation

Provided that—

- (a) nothing in this section shall be deemed to entitle the person whose case is before the advising Judges to appear or be represented before them by pleader, nor shall the Local Government be so entitled,
- (b) the advising Judges shall not disclose to the person in question any fact the communication of which might endanger the safety of any individual, and
- (c) the advising Judges shall not be bound to observe the rules of evidence and shall not permit the putting of any question which may endanger the safety of any individual

(3) Any statement made to the advising Judges by any person other than the person whose case is before them shall be deemed to be information given to a public servant within the meaning of section 182 of the Indian Penal Code,¹ and the advising Judges shall for the purpose of securing the attendances of any person under the provisions of sub-section (2) have all the powers of a District Magistrate under the Code of Criminal Procedure 1898²

(4) When the advising Judges have reached their conclusions, they shall report the same in writing to the Local Government

(5) If the person whose case is under their consideration claims, when submitting his representation or when appearing before the advising Judges, that both he and his father were born in Bengal or that he is a member of a family which has definitely settled in Bengal and is himself so settled, the advising Judges shall give him an opportunity of establishing his claim, and shall also give to the Commissioner of Police or the District Magistrate, as the case may be, an opportunity of rebutting the same, and at the time of submission of their report to the Local Government shall record their opinion as to whether such person has established his claim.

6. (1) On receipt of the report of the advising Judges the Local Government, if satisfied that the person against whom the report has been made should

Order
removal
Local
ment
by
Govern

¹ General Acts, Vol I
² General Acts, Vol. V

(Sec. 7.)

be removed elsewhere, may by an order reciting the conclusions of the advising Judges, as reported by those Judges—

- (a) direct him to leave Bengal within such time by such route or routes, and for such period as may be stated in the order, or
- (b) where the Local Government are satisfied that both he and his father were born in Bengal, or that he is a member of a family which has definitely settled in Bengal and is himself so settled, direct him to leave the Presidency area within such time, by such route and for such period as may be stated in the order, and may in that case further order that he shall during the same period notify his place of residence and any change or intended change of residence and any absence or intended absence from his residence to the officer appointed by the Local Government in this behalf.

(2) The order of the Local Government under subsection (1) shall be final, and shall not be called in question in any subsequent proceeding under section 9 or section 10.

Evasion of orders. **7.** Where any person on whom a warrant has been served under section 4—

- (i) fails to attend at the place and at the time or times specified in the warrant and thereafter when required in order to receive the order of the Local Government under section 6, or
- (ii) prior to the issue of that order, leaves Bengal or the Presidency area, as the case may be,

the Local Government may issue the order under section 6 in the absence of that person by publishing the same in the *Calcutta Gazette*, and such person shall be deemed to have absconded in order to evade that order :

Provided that the Local Government may condone a failure to attend under clause (i), on reasons for such non-attendance being furnished to their satisfaction, and in that case such person shall not be deemed to have absconded in order to evade the order.

of 1923.]

(Secs 8-10)

8. Every person, in respect of whom an order has been made under section 6 shall, if so directed by the Commissioner of Police or the District Magistrate, as the case may be,—

Identification
order

- (i) present himself to be photographed,
- (ii) allow his finger impressions to be recorded,
- (iii) if literate, furnish such officer with specimens of his handwriting and signature and
- (iv) attend at such times and places as the Commissioner of Police or the District Magistrate, as the case may be, may direct for all or any of the aforesaid purposes.

9. When any person, against whom an order has been made under section 6, fails to comply with such order within the time specified therein, or after complying with the said order returns to, or after evading the said order returns to or remains in, any place within Bengal or the Presidency area, as the case may be, before the expiry of the period stated in the order, or fails to give to the officer appointed to receive it the information in regard to residence or absence set forth in section 6, such person may be arrested without a warrant by a police-officer and shall be liable, on conviction before a Presidency Magistrate, or a Magistrate of the first class, to be punished with rigorous imprisonment for a term which may extend to one year

Penalty for
breach of order
under section 6

10. (1) Any person who fails to comply with, or attempts to evade, any direction given in accordance with the provisions of section 8, or who absconds in order to evade any order made under section 6, shall be liable to be arrested without a warrant and shall, on conviction before a Presidency Magistrate, or a Magistrate of the first class, be liable to be punished with imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both

Penalty for
breach of order
under section 8
or for abscond-
ing to evade an
order under
section 6

(2) An offence under this section and under section 9 shall be deemed to be a non-bailable offence



BENGAL ACT No. II OF 1923.

[THE CALCUTTA RENT (AMENDMENT)
ACT, 1923].¹

[4th April, 1923]

An Act to amend the Calcutta Rent Act, 1920

Act 920 WHEREAS it is expedient to amend the Calcutta Rent Act, 1920,² so as to provide for its extension for a further period as hereinafter provided,

And whereas the previous sanction of the Governor General under sub-section (3) of section 80A of the Government of India Act has been obtained to the passing of this Act,

It is hereby enacted as follows —

1. This Act may be called the Calcutta Rent (Amendment) Act, 1923 Short title

Act 920 2. In sub-section 4 of section 1 of the Calcutta Rent Act, 1920, for the words "for a period of three years from the date of the commencement of the Act" the words and figures "until the end of March 1924" shall be substituted. Amendment of section 1 of Ben Act of 1920 II

¹ For Statement of Objects and Reasons, see *Calcutta Gazette*, 1923 Pt IV, p 216 and for Proceedings in Council, see the Bengal Legislative Council Proceedings, 1923 Vol XI No 6, pp 14—17

² *Ante*, p 219

BENGAL ACT No. III OF 1923.

THE CALCUTTA MUNICIPAL ACT, 1923.

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12. Power to Executive Officer to issue notices to take out licenses, etc.
13. Executive Officer to prove liability when service of notice not proved.
14. Appeal to Bench or to Court of Small Causes.
15. Statement by appellant.
16. Procedure of Court in appeal.
17. Finality of order of Corporation or Executive Officers when no appeal.

SCHEDULE VII.
WARDS FOR PURPOSES OF VALUATION.

SCHEDULE VIII.
TAX ON CARRIAGES AND ANIMALS.

SCHEDULE IX
SCAVENGING-TAX.

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FORM OF NOTICE OF DEMAND

SCHEDULE XI
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TABLE OF FEES PAYABLE ON WARRANTS OF
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SCHEDULE XIV
RULES AS TO PRIVATE CONNECTIONS TO PREMISES
AND METERS.

Private connections to premises

- 1 Separate service-pipes for separate premises
- 2 Separate stop-cocks and underground hydrants or taps for supply of unfiltered water to private premises
- 3 Outer stop-cocks
- 4 Size of ferrules
- 5 Construction of service-pipes, ferrules and works
- 6 Power to Corporation to inspect premises.
7. Replacing or alteration of fittings for supplying water.
- 8 Inspection of works, etc, by qualified officer before permitting connection with mains

Meters

- 9 Testing of meter.
10. Payment by occupier in case of incorrectness of meter
11. Replacing of meter
- 12 Prohibition of fraud in respect of meter.
13. Prohibition of injuring meter or fittings

SCHEDULE XV.

RULES AS TO DRAINS, PRIVIES AND URINALS.

Drains.

1. Plans of house-drains to be submitted to Corporation.
2. Material and joints.
3. Size.
4. Angles.
5. How to be laid.
6. Prohibition of inlet within building.
7. Traps.
8. Ventilation.
9. Soil-pipe of connected-privy or urinal.
10. Ventilation of soil-pipe of connected-privy or urinal detached from building.
11. Waste-pipes.
12. Open house-drains.
13. Type-plans.
14. Maintenance of house-drains kept up for the benefit of certain premises only.
15. Maintenance of house-drains jointly used by two or more premises.
16. Power to Executive Officer to supervise and require alteration of work of laying underground drain.
17. Restriction on construction of drain beneath building.
18. Drains passing beneath a building.

Privies and urinals.

19. Plans of privies and urinals to be submitted to Corporation.
20. Power to Corporation to refuse to sanction service-privy or service-urinal which will be a nuisance.
21. Regulation of site of service-privies and service-urinals.
22. Power to Corporation to require substitution of connected-privies for service-privies and connected-urinals for service-urinals.
23. Power to Corporation to require owner to provide access to service-privy or service-urinal from street.
24. Models and type-plans.
25. Drains.
26. Floor.
27. Walls and roof.

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RULE

- 26 Platform
- 29 Ventilation of privies and urinals in, or adjacent to, buildings
- 30 Service-privies and urinals to be provided with a movable receptacle for sewage
- 31 Connected-privies and urinals to be separated from kitchens etc
- 32 Flushing of connected-privies and of urinals
- 33 Pan for connected-privies and urinals
- 34 Water-trap
- 35 Syphon-trap and anti-syphonage pipe
- 36 Prohibition of "containers" and "D traps"
- 37 Soil-pipe for connected-privies and connected urinals
- 38 Enforcement of the foregoing rules in the case of future privies or urinals

 SCHEDULE XVI

 RULES AS TO THE REGULATION MAINTNANCE,
 PROTECTION AND REPAIR OF STREETS AND PUBLIC
 PLACES.

*Regulation, maintenance and protection of streets
 and public places.*

- 1 Cutting of hedges and trees and power to Corporation to cause same to be cut
- 2 Regulation of verandahs, etc projecting over streets
- 3. Sky-signs

Execution of works in public streets

- 4. Guarding and lighting when public street opened or broken up and speedy completion of work.
- 5. Power to Corporation to prevent or restrict traffic in street during progress of work.

*Naming of public streets and numbering of
 premises.*

- 6. Posting of street names.
- 7. Numbering of premises.
- 8 Corporation to keep a register of premises.

SCHEDULE XVII.

RULES AS TO THE USE OF BUILDING-SITES AND
THE EXECUTION OF BUILDING-WORK.*Part I.—Building-sites.*

1. Conditions as to use of building-sites.
2. Certificate as to correctness of plans of a previously existing building and fees therefor.

Part II.—Buildings generally.

3. Height
4. Level of floor.
5. Provision of fire-escapes, stair-cases and lift in certain buildings.
6. Certain buildings not to be erected within six feet of a service-privy.
7. Prohibition of use of inflammable materials for roofs or external walls.

Part III.—Masonry buildings generally.

8. Foundation.
9. Plinth.
10. Footings for walls.
11. Outer walls.
12. Bonding of walls.
13. Damp-proof course.
14. Walls in building of more than one story.
15. Floors.
16. Beams and girders.
17. Terrace-roofs.
18. Power to Corporation to regulate height of boundary wall.
19. Notice to be sent to Corporation before commencing work.
20. Notice after completion of work.
21. Inspection of masonry buildings by Corporation.
22. Power to Corporation to take action after making inspection.

Part IV.—Dwelling-houses and other domestic buildings.

23. Proportion of site for dwelling-house which may be built upon.
24. Dwelling-houses and out-offices where two-thirds of site are left vacant.

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RULE

- 25 Size and ventilation of inhabited rooms
- 26 Floor of inhabited room over stable, cattle-shed or cow house
- 27 Lighting and ventilation of staircases
- 28 Ground floor
- 29 Court-yard of dwelling house
- 30 Open space in rear of building, regulating the rear height
- 31 Relaxation of rule 30 in certain cases
- 32 Open space at sides of building
- 33 Court yards and outward open spaces to be raised and kept open
- 34 Paving and draining of court-yards and open spaces
- 35 Space to be added to street not to be taken into account under rules 23, 24, 30 and 32
- 36. Open space prescribed for one site not to be taken for another site
- 37 Position of privies in a domestic building

Part V—Buildings of the warehouse class

- 38 Height of buildings of the warehouse class
- 39 Open spaces for buildings of the warehouse class
- 40 Floors of certain buildings of the warehouse class
- 41 Additional open space for buildings of the warehouse class for loading or unloading carts

Part VI—Public buildings

- 42 Application of certain provisions of Part IV to public buildings
- 43 Use of incombustible or fire-resisting materials
- 44 Materials to be deemed incombustible
- 45 Materials to be deemed to be fire-resisting, but not incombustible
- 46 Walls for staircases
- 47 Uniformity in trends and risers in staircases
- 48 Width of staircases, internal corridors and passage-ways
- 49 Division of wide staircase by hand-rail.
- 50 Separate means of exit from floors on different levels
- 51. Doors and windows to open outwards

Part VII.—Applications for permission to erect new buildings other than huts.

RULE.

52. Application to Corporation for permission to erect a masonry new building.
53. Particulars to be furnished in and with, such applications.
54. Signature of plans, elevations and sections.
55. Necessary employment of licensed building surveyor or other competent person to supervise building.
56. Formulation of requirements and objections.
57. Permission to execute work when to be given or refused by the Corporation.
58. Remedy if Corporation delay grant or refusal of permission.
59. Grounds on which permission to erect a masonry new building may be refused.
60. Signature of approved plans.
61. Retention of plan and submission of fresh application, after refusal to permit execution of work.
62. Work not to be commenced unless and until permission given.
63. Special powers to Corporation to suspend or grant permission to erect a masonry building or convert huts, etc., into a masonry building.
64. Lapse of permission, if not acted upon within three years, or, if granted before a certain date, except in certain circumstances.
65. Power to Corporation to cancel permission on the ground of material misrepresentation by applicant.

Part VIII.—Huts.

66. Continuous lines.
67. Distance between eaves and alignment.
68. Use of spaces referred to in rule 67.
69. Erection of huts in a *bustee* in court-yard formation.
70. Area of court-yard in huts not in a *bustee*.
71. Space between huts.
72. Distance of huts from metalled and sewered street.
73. Distance between hut and masonry building.
74. Distance between hut and cow-house, etc.
75. Prohibition of projections or dropping of water over street or passage.

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RULE.

- 76. Height.
- 77. Plinth.
- 78. Rooms.
- 79. Court-yards.

Part IX.—Applications for permission to erect new buildings which are huts.

- 80. Application to be sent, and particulars furnished, to Corporation by person intending to erect a hut.
- 81. Application for permission to erect a hut.
- 82. Power to Corporation to require further information or a proper site-plan.
- 83. Power to Corporation to employ licensed building surveyor to prepare site-plan, etc., for hut.
- 84. Permission to execute work when to be given or refused.
- 85. Remedy if Corporation delay grant or refusal of permission.
- 86. Grounds on which permission to erect a hut may be refused.
- 87. Retention of plan, and submission of fresh application, after refusal of permission to erect a hut.
- 88. Work not to be commenced unless and until permission given.
- 89. Lapse of permission, if not acted upon within six months.

Part X.—Application of rules in this schedule to alterations of, and additions to, buildings.

- 90. Relaxation of rule 3.
- 91. Applicability of rule 30 to alterations and additions above the ground floor.
- 92. Restriction on application of rules 52 to 65, or 80 to 89.
- 93. Grant of provisional permission to proceed with work in cases of urgency.
- 94. Power of Corporation to relax certain rules as provided under section 331;

[Ben. Act III of 1923.]

SCHEDULE XVIII.

RULES FOR THE INSPECTION AND REGULATION
OF LAND AND BUILDINGS.

1. Power to inspect premises for sanitary purposes.
2. Power to Corporation to require cleansing and lime-washing of building.
3. Power to Corporation to require owner to secure, enclose, cleanse, or clear land or building which is untenanted, filthy or a nuisance.
4. Power to Corporation to demolish, repair or secure wall, building or fixture in a ruinous state, etc.
5. Power to Corporation to sell materials of buildings demolished in pursuance of notice issued under rule 4.
6. Further powers to Corporation with reference to insanitary or congested buildings.
7. Power to Corporation to direct the filling up, etc., of unwholesome wells, pools, etc.
8. Power to Executive Officer to take action in case of a serious nuisance affecting the public health.
9. Power to Corporation to regulate excavations

SCHEDULE XIX.

CERTAIN PURPOSES FOR WHICH PREMISES MAY NOT
BE USED WITHOUT A LICENSE.

SCHEDULE XX.

FORM OF CERTIFICATE.

SCHEDULE XXI

REGISTRATION OF BIRTHS.

SCHEDULE XXII

REGISTRATION OF DEATHS.

SCHEDULE XXIII

FORM OF NOTICE TO BE ISSUED ON YELLOW PAPER
AND AFFIXED ON PREMISES WHEN OTHER MEANS
OF SERVICE NOT AVAILABLE.

BENGAL ACT No. III OF 1923.

(THE CALCUTTA MUNICIPAL ACT, 1923)¹.

[18th July, 1923]

An Act to amend and consolidate the law relating to the Municipal Affairs of the Town and Suburbs of Calcutta

Whereas it is expedient to amend and consolidate, in the manner hereinafter appearing, the law relating to the municipal affairs of the town and suburbs of Calcutta,

Preamble

And whereas the previous sanction of the Governor General required by section 80A, sub-section (3), of the Government of India Act, has been obtained to the passing of this Act,

It is hereby enacted as follows —

5 & 6,
Geo V, c 61,
6 & 7,
Geo V, c 37,
9 & 10,
Geo V, c 101

PART I.

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Calcutta Municipal Act, 1923

Short
extent and
title
commencement

(2) Except as is hereinafter otherwise expressly provided, it applies only to Calcutta

(3) It shall come into force on the first day of April, 1924

Provided that, before the said first day of April, 1924, and at such time (after this Act is published in the *Calcutta Gazette* after having received the assent of the Governor General) as the Local Government shall appoint, a general election and appointment of Councillors shall be held and made in the manner provided in this Act, and such election and appointment shall be deemed to have been held and made under the provisions of this Act, but such election or appointment shall not take effect until the said first day of April. For the purposes of such election, the Chairman of the Corporation shall exercise and perform the same powers and duties in Calcutta, as are conferred or imposed by or under this Act on the Executive Officer

Explanation—In this proviso, as elsewhere in this Act, the word "Calcutta" includes the area added to Calcutta as defined in clause (1) of section 3

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19.3 (Ben. Act VI of 1923)

(Part I.—Chapter I.—Preliminary.—Section 2.)

enact-
and **2.** (1) The following enactments are hereby repealed, namely:—

- (a) the Calcutta Municipal Act, 1899,
- (b) the Calcutta Municipal (Loans) Act, 1914, and
- (c) the Calcutta Municipal (Amendment) Act, 1917.

Ben. Act
of 1899.
Ben. Act
of 1914.
Ben. Act
of 1917.

(2) In the area added to Calcutta—

- (a) the Bengal Municipal Act, 1884, and
 - (b) the Bengal Food Adulteration Act, 1919,
- shall be deemed to be repealed.

Ben. Act
of 1884.
Ben. Act
of 1919.

(3) Every budget passed, loan taken, assessment, plan of a projected public street, measurement or division made, standard plan of a *bustee* approved, license, permission or sanction granted and debenture or notice issued under the Calcutta Municipal Act, 1899, shall, so far as it is in force at the commencement of, and is not inconsistent with, this Act, be deemed to have been respectively passed, taken, made, approved, granted or issued under this Act, and shall (unless previously altered, modified, cancelled, repaid, suspended, surrendered or withdrawn, as the case may be, under this Act) remain in force for the period (if any) for which it was so passed, taken, made, approved, granted or issued.

Ben. Act
of 1899.

(4) Except as the Local Government may otherwise, by notification in the *Calcutta Gazette*, direct, all rules, by-laws, regulations, orders, directions and powers made, issued or conferred under the provisions of the Calcutta Municipal Act, 1899, and in force at the date of the commencement of this Act, shall apply to the area added to Calcutta in supersession of all corresponding rules, by-laws, regulations, orders, directions and powers (if any) made, issued or conferred under either of the Acts repealed in such area under sub-section (2), and every appointment made in the area added to Calcutta under either of the said Acts shall, so far as it is not inconsistent with the provisions of this Act, continue in force, and be deemed to have been made under the provisions of this Act, unless and until it is superseded by any appointment made under this Act.

(5) The Local Government may, by notification in the *Calcutta Gazette*, appoint a person to exercise and perform the powers and duties which are conferred or imposed by or under this Act on the Executive Officer until that officer is appointed under section 51, sub-section (1).

of 1923.]

(Part I—Chapter I—Preliminary—Section 3)

3. For the purposes of this Act, unless there is anything repugnant in the subject or context,—

(1) the expression “area added to Calcutta” means—

“Area added to Calcutta”

- (i) the Miniktala Municipality,
- (ii) the Cossipur-Chitpur Municipality
- (iii) the Garden Reach Municipality,
- (iv) the new Dock Extension area, vested in the Commissioners of the Port of Calcutta, for the construction of King George's Dock and the works in connection therewith and lying partly within the jurisdiction of the District Board of the 24-Parganas and partly within the jurisdiction of the South Suburban Municipality, and
- (v) that portion of the Tollyganj Municipality which comprises the Ballyganj Pumping Station and the High Level Outfall Sewer,

(2) an article shall be deemed to be “adulterated”—

Adulterated

(a) in the case of drugs—

- (i) if, when it is sold or exposed for sale under or by a name recognised in the British, German, American or any other Pharmacopœia which the Local Government may specify by notification in the *Calcutta Gazette*, it differs from the standard of strength, quality or purity laid down in the said Pharmacopœia, unless the standard of strength, quality or purity of such drug be plainly stated on the bottle, box or other receptacle, or
- (ii) if its strength, quality or purity falls below the professed standard under which it is sold or exposed for sale,

(b) in the case of confectionery—

if it contains any mineral substance or poisonous colour or flavour or other ingredients deleterious or detrimental to health, and

(Part I.—Chapter I.—Preliminary.—Section 3.)

(c) in the case of food—

- (i) if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength, or
- (ii) if any substance has been substituted wholly or in part for the article, or
- (iii) if any valuable constituent of the article has been wholly or in part abstracted, or
- (iv) if it is mixed, coloured, powdered, coated or stained in a manner whereby damage or inferiority is concealed, or
- (v) if it does not comply with the standard prescribed therefor by or under this Act or under any other law for the time being in force, or
- (vi) if it contains or is mixed or diluted with any substance in any quantity to the prejudice of the purchaser or consumer or in any proportion which diminishes in any manner its food value or nutritive properties as compared with the same in a pure or normal state and in an undeteriorated and sound condition, or
- (vii) if it contains any added poisonous or other added deleterious ingredient which may render such article injurious to health, or
- (viii) if it is not of the nature, substance or quality which it purports or is represented to be :

“ Agent.”

(3) “ agent ” in section 46 and in Schedule II includes an election agent ;

“ Assessment-book.”

(4) “ assessment-book ” means the municipal assessment-book prescribed by section 143, and includes any books subsidiary thereto ;

“ Bazar.”

(5) “ bazar ” means any place of trade (other than a market) where there is a collection of shops or warehouses which the Corporation may, by resolution, declare to be a bazar ;

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(Part I—Chapter I—Preliminary—Section 3)

- (6) "budget-grant" means a sum entered on the expenditure side of a Budget Estimate which has been finally adopted, and includes also any sum by which a budget-grant is at any time increased by a transfer under clause (c) of sub-section (1) of section 95 " Budget grant "
- (7) "building" includes a house, out-house, stable, privy, urinal, shed, hut wall (other than a boundary wall not exceeding ten feet in height) and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever, but does not include a *hogla* or other similar kind of temporary shed erected on ceremonial festive occasions, " Building "
- (8) "building-line" means the line up to which the main wall of a building abutting on a street or a projected public street may lawfully extend " Building line "
- (9) "building of the warehouse class" means a building the whole, or a substantial part of which, is used, or intended to be used, as a warehouse, factory, manufactory, brewery, or distillery, or for any similar purpose, which is neither a "domestic building," nor a "public building" as defined in this section, and includes a hut used or intended to be used for any of the purposes mentioned in this clause, " Building of the warehouse class "
- (10) "bustee" means an area containing land occupied by, or for the purposes of, any collection of huts— " Bustee "
- (a) standing on a plot of land not less than ten *cottahs* in area and bearing one number in the assessment book, or
- (b) standing on two or more plots of land which are adjacent to one another and exceed in the aggregate one *bigha* in area,
- (11) "Calcutta" includes the area added to Calcutta and means the area described in Schedule I and any other area which the Local Government may include in that schedule on the issue of a notification in the *Calcutta Gazette* under section 513, " Calcutta "

(Part I.—Chapter I.—Preliminary.—Section 3.)

- “Candidate.” (12) “candidate” in section 46 and in Schedule II means a person who has been nominated as a candidate at any election of a Councillor or who claims that he has been so nominated or that his nomination has been improperly refused, and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate at such election, provided that he is subsequently nominated as a candidate at such election ;
- “Carriage.” (13) “carriage” means any wheeled vehicle, with springs or other appliances acting as springs, which is ordinarily used for the conveyance of human beings, and includes a *jinrickshaw*, but does not include a bicycle and a tricycle (other than a motor bicycle or motor tricycle), or a perambulator or other form of vehicle designed for the conveyance of small children ;
- “Cart ” (14) “cart” means any cart, hackery or wheeled vehicle with or without springs, which is not a “carriage” as defined in this section, and includes a hand-cart ;
- “Connected-privy.” (15) “connected-privy” means a privy which is directly connected with a sewer ;
- “Connected-urinal.” (16) “connected-urinal” means a urinal which is directly connected with a sewer ;
- “Corrupt practice.” (17) “corrupt practice” means any act deemed to be a corrupt practice under the provisions of Schedule II ;
- “Cubical extent.” (18) the expression “cubical extent” when used with reference to the measurement of a building, means the space contained within the external surfaces of its walls and roof and the upper surface of the floor of its lowest or only storey ;
- “Dairy.” (19) “dairy” includes any farm, cattle-shed, cow-house, milk-store, milk-shop, or other place from which milk is supplied only on, or for, sale or in which milk is kept, or used for the purposes of sale, or manufacture into butter, *ghee*, cheese, curds, or dried or condensed milk, for sale,
and in the case of a dairyman, who does not occupy any premises for the sale of milk, includes the place where he keeps the

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(Part I — Chapter I — Preliminary — Section 3,

vessels used by him for the sale of milk, but does not include—

- (a) a shop from which milk is not supplied otherwise than in properly closed and unopened receptacles in which it was delivered to the shop, or
- (b) a shop or other place in which milk is sold for consumption on the premises only, or
- (c) a shop or place from which milk is sold or supplied in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or place,

- (20) "dairyman" includes any occupier of a dany, any cow-keeper who trades in milk, or any seller of milk whether wholesale, or by retail, "Dairyman"

- (21) "dangerous disease" means—

- (a) cholera, plague, small pox, cerebro-spinal meningitis and diphtheria, and
- (b) any other epidemic endemic or infectious disease which the Local Government may, by notification in the *Calcutta Gazette*, declare to be a dangerous disease for the purposes of this Act,

"Dangerous disease"

- (22) "depot" means a place where bulky articles are stored, whether for sale or otherwise but not for domestic consumption, in quantities exceeding fifty munds,

"Depôt"

- (23) "domestic building" includes a dwelling-house and any other masonry building which is neither a "building of the warehouse class" nor a "public building," as defined in this section, nor a place exclusively used for private worship,

"Domestic building"

- (24) a supply of water for "domestic purposes" shall not be deemed to include a supply—

"Domestic purposes"

- (a) for animals or for washing carriages, where such animals or carriages are kept for sale or hire,
- (b) for any trade, manufacture or business,
- (c) for fountains,
- (d) for watering gardens or streets,

(Part I.—Chapter I.—Preliminary.—Section 3.)

(e) for any ornamental or mechanical purpose,

(f) for building purposes, or

(g) for flushing purposes;

"Drain."

(25) "drain" includes a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel and any other device for carrying off sullage, sewage, offensive matter, polluted water, rain-water or sub-soil water;

"Drug."

(26) "drug" means any substance used as medicine or in the composition or preparation of medicines, whether for internal or external use;

"Dwelling-house"

(27) "dwelling-house" means a masonry building constructed, used or adapted to be used wholly or principally for human habitation;

"Edible oil or fat."

(28) "edible oil or fat" means the oil or fat commonly used as wholesome foodstuff, which is free from rancidity and decomposition, and does not contain any mineral oil, *pakra* oil or any other substance injurious to health;

"Election agent."

(29) "election agent" means the person appointed under section 27, sub-section (2), by a candidate as his agent for an election;

"Executive Officer."

(30) "Executive Officer" means the Chief Executive Officer appointed under section 51, sub-section (1), and includes an acting Executive Officer appointed during his temporary absence;

"Food."

(31) "food" includes every article used for food or drink by man, other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food; and also includes confectionery, flavouring and colouring matters and spices and condiments;

"Habitable room."

(32) "habitable room" means a room constructed or adapted for human habitation;

"Half-year."

(33) "half-year" means half of a financial year;

"House-drain."

(34) "house-drain" means any drain of, and used for the drainage of, one or more premises;

"House-gully."

(35) "house-gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter to municipal servants or to persons

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(Part I—Chapter I—Preliminary.—Section 3)

employed in the cleansing thereof or in the removal of such matter therefrom, and includes the air space above such passage or land,

- (36) "hut" means any building, no substantial part of which, excluding the walls up to a height of eighteen inches above the floor or floor level, is constructed of masonry, steel, iron or other metal, "Hut"
- (37) "inhabited room" means a room in which some person passes the night, or which is used as a living room, and includes a room with respect to which there is a reasonable presumption (until the contrary is shown) that some person passes the night therein or that it is used as a living room, "Inhabited room"
- (38) "label" includes any tag, brand, mark or statement in writing on or attached to or used in connection with any package containing any article of food, drug or substance; "Label"
- (39) "market" includes any place where persons assemble for the sale of meat fish, fruit, vegetables, live-stock or any other article of food, "Market"
- (40) "masonry building" means any building other than a hut, and includes any structure a substantial part of which is made of masonry, steel, iron or other metal, "Masonry building"
- (41) "milk" includes cream, skimmed milk, separated milk and condensed and desiccated milk, "Milk"
- (42) all drugs or articles of food which enter into the composition of food, the package or label of which bears any statement, design or device regarding such drugs or articles or the ingredients or substances contained therein as may be false or may mislead in any particular, shall be deemed to be "misbranded", and a drug or an article of food shall also be deemed to be misbranded, if it is offered for sale under the name of another drug or article of food, "Misbranded"
- (43) "municipal drain" means a drain vested in the Corporation, "Municipal drain"
- (44) "municipal market" means a market belonging to or maintained by the Corporation, "Municipal market"
- (45) "municipal slaughter-house" means a slaughter-house belonging to or maintained by the Corporation; "Municipal slaughter house"

(Part I.—Chapter I.—Preliminary—Section 3.)

“New building”

(46) the expression “new building” means and includes—

- (a) any building erected from the ground upwards after the commencement of this Act,
- (b) any building which, having collapsed or been demolished or burnt down for more than one-half of its cubical extent, is re-erected wholly or partially after the commencement of this Act, whether the dimensions of the re-erected building are the same as those of the original building or not,
- (c) any hut which is converted into a masonry building after the commencement of this Act, and
- (d) any building not originally constructed for human habitation which is converted into a place for human habitation after the commencement of this Act;

Explanation.—Sub-clause (b) applies whether more than half the cubical extent has collapsed or been demolished or burnt down at the same time or at different times :

“Nuisance.”

(47) “nuisance” includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing, or which is or may be dangerous to life or injurious to health or property ;

“Occupier.”

(48) “occupier” includes any person for the time being paying, or liable to pay, to the owner the rent or any portion of the rent of the land or building in respect of which the word is used or damages on account of the occupation of such land or building, and also an owner living in, or otherwise using, his own land or building and also a rent-free tenant ;

“Offensive matter.”

(49) “offensive matter” means kitchen or stable refuse, dung, dirt, putrid or putrefying substances, and filth of any kind which is not included in “sewage” as defined in this section ;

“Owner.”

(50) “owner” includes the person for the time being receiving the rent of any land or building or of any part of any land or building, whether on his own account or as

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(Part I—Chapter I—Preliminary—Section 3)

agent or trustee for any person or society or for any religious or charitable purpose, or as a receiver, or who would so receive such rent if the land building or part thereof were let to a tenant,

- (51) 'package' includes every means by which goods for carriage or for storage or for sale are caused in covered, enclosed, contained or packed, ' Package
- (52) 'party-wall' means a wall forming part of a building and used or constructed to be used for the support and separation of adjoining buildings belonging to different owners or constructed or adapted to be occupied by different persons, "Party wall"
- (53) the word 'platform, when used with reference to a privy, means the surface containing the aperture through which the sewage passes into the receptacle or sewer, Platform
- (54) "private street" means any street, road, lane, gully, alley, passage or square which is not a 'public street' as defined in this section, and includes any passage securing access to four or more premises belonging to the same or different owners, but does not include a passage provided in effecting a partition of any masonry building amongst joint owners where such passage is not less than eight feet wide, Private street
- (55) "public analyst" means any person to be appointed by the Corporation to perform the duties and to exercise the powers of a public analyst prescribed by this Act, Public analyst "
- (56) 'public building' means a masonry building constructed, used or adapted to be used— ' Public building
- (a) is a place of public worship, or as a school, college or other place of instruction (not being a dwelling-house so used), or is a hospital, work-house, public theatre, public hall, public concert-room public ball-room, public lecture room, public library or public exhibition room, or is a public place of assembly, or
- (b) for any other public purpose, or

(Part I.—Chapter I.—Preliminary.—Section 3.)

(c) as an hotel, lodging-house, home, refuge, or shelter, where the building exceeds in cubical extent two hundred and fifty thousand cubic feet or has sleeping accommodation for more than one hundred persons ;

"Public street."

(57) "public street" means any street, road, lane, gully, alley, passage, pathway, square or court, whether a thoroughfare or not, over which the public have a right of way,

and includes—

(a) the roadway over any public bridge or causeway,

(b) the footway attached to any such street, public bridge or causeway, and

(c) the drains attached to any such street, public bridge or causeway,

and, where there is no drain attached to any such street, shall, unless the contrary is shown, be deemed to include also, all land up to the outer wall of the premises abutting on the street, or, if a street alignment has been fixed, then up to such alignment :

"Railway."

(58) "railway" includes a tramway ;

"Registered medical practitioner."

(59) "registered medical practitioner" means a medical practitioner registered under the Bengal Medical Act, 1914¹ ;

"Reside."

(60) (a) a person shall be deemed to "reside" in any dwelling-house or hut which, or some portion of which, he sometimes, although not uninterruptedly, uses as a sleeping apartment, and

(b) a person shall not be deemed to cease to "reside" in any such dwelling-house or hut merely because he is absent from it or has elsewhere another dwelling-house or hut in which he resides, if there is the liberty of returning to it at any time and no abandonment of the intention of returning to it ;

"Rubbish."

(61) "rubbish" means dust, ashes, broken bricks, mortar, broken glass, and refuse of any kind which is not "offensive matter" as defined in this section ;

"Service-privy."

(62) "service-privy" means a fixed privy which is cleansed by hand, but does not include a movable commode ;

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(Part I—Chapter I—Preliminary—Section 3)

- (63) "service-urinal" means a fixed urinal which is cleansed by hand, "Service urinal"
- (64) "sewage" means night-soil and other contents of privies, urinals cesspools or drains, and includes trade effluents and discharges from manufactories of all kinds, "Sewage"
- (65) "sky-sign" means any word, letter, model, sign, device or other representation, in the nature of an advertisement, announcement or direction, which is supported on or attached to any post, pole, standard, framework or other support wholly or in part upon, over or above any building or structure and which is wholly or in part visible against the sky from any point in any street or public place, and includes— "sky sign"
- (a) every part of such support, and
- (b) any balloon, parachute or similar device employed wholly or in part for the purposes of any advertisement or announcement on, over or above any building, structure or erection of any kind, or on or over any street or public place,
- but shall not be deemed to include—
- (i) any flagstaff, pole, vane or weather-cock, unless adapted or used wholly or in part for the purposes of any advertisement or announcement
- (ii) any sign on any board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, on the cornice or blocking-course of any wall, or to the ridge of a roof, if such contrivance be of one continuous face and not open work and does not extend in height more than three feet above any part of such wall, parapet or ridge, or
- (iii) any representation which relates exclusively to the business of a railway company, and which is placed wholly upon or over any railway, railway station, yard, platform or station approach, or premises belonging to a railway company, and which is also so placed that it could not fall into any street or public place,

(Part I.—Chapter I.—Preliminary.—Part II.—
Chapter II.—The Corporation.—Sections 4, 5.)

"Slaughter-house."

(66) "slaughter-house" means any place used for the slaughter of cattle, sheep, goats, kids or pigs for the purpose of selling the flesh thereof as meat;

"Street."

(67) "street" means a public or private street;

"Street alignment."

(68) "street alignment" means the line dividing the land comprised in and forming part of a street from the adjoining land; and

"Year"

(69) "year" means a financial year.

Power to Corporation to decide whether area is a *bustee* or not.

4. The Corporation may decide whether any particular area is or is not a "*bustee*" as defined in section 3, and their decision shall be final.

PART II.

CONSTITUTION AND GOVERNMENT.

CHAPTER II.

THE CORPORATION.

Constitution.

5. The Corporation shall consist of—

- (a) seventy-five elected Councillors,
- (b) ten Councillors to be appointed by the Local Government,
 - (i) to secure the association in the municipal administration of persons specially fitted in the opinion of the Local Government for appointment as Councillors, and
 - (ii) to secure the representation of minorities including the backward and labouring classes, and
- (c) five Aldermen to be elected by the Councillors in the manner provided in section 9,

Constitution and incorporation of the Corporation.

and shall, by the name of "the Corporation of Calcutta", be a body corporate and have perpetual succession and a common seal, and may by such name sue and be sued.

of 1923,]

*(Part II—Chapter II—The Corporation—
Sections 6—9)*

6. All property, movable and immovable, and all interests of whatsoever nature or kind therein, vested in the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1899, at the commencement of this Act, with all rights of whatsoever description used, enjoyed or possessed by the said Corporation, and all rights and interests in immovable property situated within the area added to Calcutta which are now vested in, or held in trust for, the Commissioners of the Maniktala, Cossipur-Chitpur, Garden Reach and Pollyganj Municipalities and all movable property now vested in or held in trust for, and all sums due at the commencement of this Act, whether on account of rates, tolls, taxes and fees or otherwise, to the Commissioners of the Maniktala, Cossipur-Chitpur or Garden Reach Municipalities, shall be deemed to be vested in the Corporation as constituted under this Act

Property vested
in the Corpora-
tion

7. All contracts made and liabilities incurred by the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1899, or by the Commissioners of the Maniktala or Cossipur-Chitpur or Garden Reach Municipalities, may, so far as they are outstanding at the commencement of this Act, be enforced by and against the Corporation of Calcutta as constituted under this Act

Traded
in the
of

8. The elected Councillors shall be elected by the constituencies specified in Schedule III, and the number of Councillors to be elected by each constituency and the number of seats to be reserved for Muhammadans in any constituency shall be as stated therein against that constituency.

Constituencies

9. (1) The five Aldermen referred to in clause (c) of section 5 shall be elected at a meeting of the elected and appointed Councillors to be held after the publication of the results of a general election and of the appointments made at that time within such period as the Local Government may fix and in such manner as they may prescribe, and such election shall take effect from the date on which the general election takes effect

Election
Aldermen
of

Provided that no Councillor shall be entitled to be elected as an Alderman

(2) If there is any dispute as to the election of an Alderman, the matter shall be referred to for the decision of the Local Government, whose decision shall be final. If the Local Government set aside any such election, a fresh election shall be held.

(Part II.—Chapter II.—The Corporation.—
Sections 10—12.)

Annual election
of Mayor and
Deputy Mayor.

10. (1) The Corporation shall, at their first-meeting in each year, elect two of their number to be Mayor and Deputy Mayor, respectively, until the first meeting in the next following year.

(2) If any vacancy occurs in the office of Mayor or Deputy Mayor, the Corporation shall elect one of their number to fill such vacancy, and the Mayor or Deputy Mayor so appointed shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue in office.

Powers, duties and functions of the Corporation.

Annual admini-
stration report
and statement of
accounts by the
Corporation.

11. (1) The Corporation shall, as soon as may be after each first day of April, cause to be prepared a detailed report of the municipal administration of Calcutta during the previous year, together with a statement showing the amounts of the receipts and disbursements, respectively, credited and debited to the Municipal Fund during the said year, and the balance at the credit of the said fund at the close of the said year; and a report for the same period from the head of each department of the Corporation shall be incorporated in the said report.

(2) The Corporation shall thereupon forward a copy of the said report and statement to each Councillor and Alderman and to the Local Government.

(3) The Corporation shall, as soon as may be thereafter, consider the said report and statement, and a copy of the proceedings of any meeting at which the same may be discussed shall be forwarded by the Corporation to the Local Government.

(4) Copies of all the aforesaid documents shall be obtainable by any person requiring the same, on payment of such reasonable fee for each copy as the Corporation may determine.

Delegation of
Corporation's
functions.

12. (1) The Corporation may, by a resolution passed at a special meeting, delegate to the Executive Officer any of the Corporation's powers, duties or functions under this Act or under any rule or by-law made thereunder.

(2) The Executive Officer may, by a general or special order in writing, re-delegate to any municipal officer any of the powers, duties or functions which have been delegated to him by the Corporation under sub-section (1).

(3) The Executive Officer may, by a general or special order in writing, delegate to any municipal

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(Part II—Chapter II—The Corporation.—
Section 13)

officer any of the powers, duties or functions conferred or imposed upon or vested in him under this Act or under any rule or by-law made thereunder, except those conferred or imposed upon or vested in him under section 140 of this Act

Provided that when, by any order made under this sub-section, any power to enter premises between sunset and sunrise is delegated to any municipal officer, the name of such officer, as well as his official designation, shall be specified in the order

(4) The exercise or discharge by the Executive Officer of any powers, duties or functions delegated to him under sub-section (1) shall be subject to such conditions and limitations (if any) as may be prescribed in the said order, and also to control and revision by the Corporation, and the exercise or discharge by any municipal officer of any powers, duties or functions delegated to him under sub-section (2) or sub-section (3) shall be subject to such conditions and limitations (if any) as may be prescribed in the said order, and also to control and revision by the Executive Officer:

Provided that, if, in delegating any of their powers, duties or functions to the Executive Officer under sub-section (1) the Corporation direct that the action of that officer shall be final, then the exercise or discharge by him of the power, duty or function so delegated shall not be subject to control or revision by the Corporation.

13. The exercise or performance by any municipal officer of any power conferred or duty imposed by or under this Act which will involve expenditure shall, except in any case specified in the proviso to section 85, be subject to the following conditions, namely —

Exercise of
functions to be
subject to sanc-
tion of the neces-
sary expenditure

(a) such expenditure, so far as it is to be incurred in the year in which such power is exercised or duty performed, shall be provided for under a current budget-grant, and

(b) if the exercise of such power or the performance of such duty involves or is likely to involve expenditure for any period or at any time after the close of the said year, liability for such expenditure shall not be incurred without the sanction of the Corporation.

Provided that clause (b) shall not apply where the proposed expenditure is covered by a current

(Part II.—Chapter II.—The Corporation.—
Sections 14—16.)

budget-grant and is such that it can be discontinued in the next year's budget.

Control by the Local Government.

Sanction of Local Government required to projects costing two and a half lakhs or over.

14. When any project is framed by the Corporation for the execution of any work or series of works the entire estimated cost of which amounts to two and a half lakhs of rupees or more, then, notwithstanding that the cost may be included in a Budget Estimate as finally adopted under Chapter VII,—

- (a) the work shall not be commenced until the project has been sanctioned by the Local Government, and,
- (b) if any material change be made in the project after it has been so sanctioned, such change shall not be carried into effect unless and until it is sanctioned by the Local Government.

Power to Local Government to require returns, etc.

15. The Local Government may require the Corporation to furnish them with—

- (a) any return, statement, estimate, statistics or other information regarding any matter under their control;
- (b) a report on any such matter; or
- (c) a copy of any document in their charge.

Power to Local Government to depute officers to make inspection or examination and report

16. (1) The Local Government may depute any officer or officers to make an inspection or examination of any department, office, service, work or thing under the control of the Corporation, and to report to them the result of such inspection or examination.

(2) Any officer so deputed may, for the purpose of making such inspection or examination, inspect the condition of any part of Calcutta, and may require the Corporation—

- (a) to produce any record, correspondence, plan or other document which is in their possession or under their control;
- (b) to furnish any return, plan, estimate, statement, account or statistics; or
- (c) to furnish any report.

(3) Every requisition made under sub-section (2) shall be complied with by the Corporation without delay.

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(Part II—Chapter II—The Corporation—
Sections 17, 18)

17. If, on receipt of any document furnished under section 15 or any report submitted under section 16, the Local Government are of opinion that—

Power to Local Government to require Corporation to take action

- (a) any of the duties imposed by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner or
- (b) adequate financial provision has not been made for the performance of any such duty,

the Local Government may, by written order, direct the Corporation within a period to be specified in the order,—

- (i) to make arrangements to their satisfaction for the proper performance of the duties referred to in clause (a), or to make financial provision to their satisfaction for the performance of any such duty, as the case may be, or
- (ii) to show cause to the satisfaction of the Local Government against the making of such arrangements or provision, as the case may be

18. (1) If, within the period fixed by any order issued under section 17 any action directed under clause (i) of that section has not been duly taken, or cause has not been shown as aforesaid, the Local Government may, by order,—

Procedure by Local Government where Corporation fail to take action

- (a) appoint some person to take the action so directed,
- (b) fix the remuneration to be paid to him, and
- (c) direct that such remuneration and the cost of taking such action shall be defrayed out of the Municipal Fund and, if necessary, that the consolidated rate or other taxes authorized by Part IV shall be levied or increased, but not so as to exceed any maximum prescribed by that part.

(2) The person appointed under sub-section (1) may, for the purpose of taking the action directed as aforesaid, exercise any of the powers conferred by or under this Act which are specified in that behalf in the order issued under sub-section (1)

(3) The Local Government may, in addition to or instead of directing under sub-section (1) the levy or increase of the consolidated rate or other taxes, direct, by notification in the *Calcutta Gazette*, that any sum

*(Part II.—Chapter II.—The Corporation.—
Sections 14—16.)*

budget-grant and is such that it can be discontinued in the next year's budget.

Control by the Local Government.

Sanction of Local Government required to projects costing two and a half lakhs or over.

14. When any project is framed by the Corporation for the execution of any work or series of works the entire estimated cost of which amounts to two and a half lakhs of rupees or more, then, notwithstanding that the cost may be included in a Budget Estimate as finally adopted under Chapter VII,—

- (a) the work shall not be commenced until the project has been sanctioned by the Local Government, and,
- (b) if any material change be made in the project after it has been so sanctioned, such change shall not be carried into effect unless and until it is sanctioned by the Local Government.

Power to Local Government to require returns, etc.

15. The Local Government may require the Corporation to furnish them with—

- (a) any return, statement, estimate, statistics or other information regarding any matter under their control;
- (b) a report on any such matter; or
- (c) a copy of any document in their charge.

Power to Local Government to depute officers to make inspection or examination and report

16. (1) The Local Government may depute any officer or officers to make an inspection or examination of any department, office, service, work or thing under the control of the Corporation, and to report to them the result of such inspection or examination.

(2) Any officer so deputed may, for the purpose of making such inspection or examination, inspect the condition of any part of Calcutta, and may require the Corporation—

- (a) to produce any record, correspondence, plan or other document which is in their possession or under their control;
- (b) to furnish any return, plan, estimate, statement, account or statistics; or
- (c) to furnish any report.

(3) Every requisition made under sub-section (2) shall be complied with by the Corporation without delay.

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(Part II.—Chapter II—The Corporation.—
Sections 17, 18)

17. If, on receipt of any document furnished under section 15 or any report submitted under section 16, the Local Government are of opinion that—

Power to Local Government to require Corporation to take action

- (a) any of the duties imposed by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner, or
- (b) adequate financial provision has not been made for the performance of any such duty,

the Local Government may, by written order, direct the Corporation within a period to be specified in the order,—

- (i) to make arrangements to their satisfaction for the proper performance of the duties referred to in clause (a), or to make financial provision to their satisfaction for the performance of any such duty, as the case may be, or
- (ii) to show cause to the satisfaction of the Local Government against the making of such arrangements or provision, as the case may be

18. (1) If, within the period fixed by any order issued under section 17 any action directed under clause (i) of that section has not been duly taken, or cause has not been shown as aforesaid, the Local Government may, by order,—

Procedure by Local Government where Corporation fail to take action

- (a) appoint some person to take the action so directed,
- (b) fix the remuneration to be paid to him, and
- (c) direct that such remuneration and the cost of taking such action shall be defrayed out of the Municipal Fund and, if necessary, that the consolidated rate or other taxes authorized by Part IV shall be levied or increased, but not so as to exceed any *maximum* prescribed by that part.

(2) The person appointed under sub-section (1) may, for the purpose of taking the action directed as aforesaid, exercise any of the powers conferred by or under this Act which are specified in that behalf in the order issued under sub-section (1)

(3) The Local Government may, in addition to or instead of directing under sub-section (1) the levy or increase of the consolidated rate or other taxes, direct, by notification in the *Calcutta Gazette*, that any sum

(Part II.—Chapter II.—The Corporation.—Chapter III.—Election and appointment of Councillors and Aldermen.—Sections 19, 20.)

of money which may, in their opinion, be required for giving effect to any order issued under that sub-section be borrowed by way of debenture on the security of the said rate or all or any of the said taxes, or of both the said rate and all or any of the said taxes, at such rate of interest and upon such terms as to the time of repayment and otherwise as may be specified in the notification.

(4) The provisions of Chapter VIII shall apply to any loan raised in pursuance of sub-section (3).

Power of Local Government to annul illegal proceedings of Corporation.

19. The Local Government may, after consideration of any representation which may be made by the Corporation, by written order, annul any proceeding of the Corporation which they consider not to be in conformity with law or with the rules or by-laws in force thereunder, and may do all things necessary to secure such conformity.

CHAPTER III.

ELECTION AND APPOINTMENT OF COUNCILLORS AND ALDERMEN.

Qualifications of Electors, Councillors and Aldermen.

Qualifications of electors

20. (1) Subject to the provisions of any other law on the subject for the time being in force, every person shall be qualified as an elector of a general constituency specified in Schedule III who owns or occupies or resides in any premises, or exercises any profession, trade or calling, within that constituency, if such person—

- (a) being [or having been]¹ the owner or occupier of any premises liable to be assessed to the consolidated rate under Chapter X, or being [or having been]¹ the owner or person in charge of any carriage or animal liable to the tax under Chapter XI, or being [or having been]¹ a person liable to the tax on professions, trades or callings under Chapter XII, or, in the case of the first general election held under this Act, under the corresponding chapters of the Calcutta Municipal Act, 1899,—

has, as such owner, occupier or person, as the case may be, paid directly to the

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¹ The words "or having been" in s. 20 (a) were inserted by the Calcutta Municipal (No. II) Act, 1923 (Ben. Act XI of 1913), s. 8.

of 1923.]

(Part II—Chapter III.—Election and appointment of
Councillors and Aldermen—Section 20)

Corporation a sum not less than twelve rupees in respect of such consolidated rate, or in respect of such taxes, or in respect of both such rate and taxes

²[Provided that such payment has been made during and in respect of the year (or any portion of the year) last preceding the year in which the election is held]

Provided also that for the purposes of clause (a) the members of the Auxiliary Force who are exempted by the Corporation from paying the tax on horses used for the force shall be considered to have paid such tax, or

¹[(b) being or having been the occupier of any premises valued for assessment purposes under this Act or, in the case of the first general election held under this Act, under the Calcutta Municipal Act, 1899, or of a portion of any such premises has, at any time during the year last preceding the year in which the election is held, paid rent for such occupancy for at least six months during the said year at a rate not less than twenty-five rupees per mensem, and has on application to the Executive Officer had his name entered in a Register to be maintained for the purpose

Ben Act III of 1899

Provided that the application to the Executive Officer shall be made not later than the 30th September immediately preceding the election or such other date as the Executive Officer may notify in this behalf, or]

³[(c) being or having been, for not less than six consecutive months during the year last preceding the year in which the election is held, the owner of a hut in a bustee valued for assessment purposes under Chapter X, or, in the case of the first general election held under this Act, under the corresponding Chapter of the Calcutta Municipal Act, 1899, and on

¹ The first proviso to s. 20 was omitted by the Calcutta Municipal (No. 11) Act

original one by the Calcutta

² substituted for the original ones by Act of 1923), s. 8

(Part II.—Chapter III.—*Election and appointment of Councillors and Aldermen.*—Section 21.)

account of which a sum of not less than twelve rupees has been paid during the said year in respect of the consolidated rate, has on application to the Executive Officer had his name entered in a Register to be maintained for the purpose:

Provided that the application to the Executive Officer shall be made not later than the 30th September immediately preceding the election or such other date as the Executive Officer may notify in this behalf.]

(2) Subject to the provisions of any other law on the subject for the time being in force, a company, body corporate, firm, joint family or other association of individuals, as such, shall be qualified as an elector, provided that such company, body corporate, firm, joint family or other association of individuals possess the qualifications prescribed by clauses (a), (b) or (c) of sub-section (1).

Elections in area added to Calcutta before the second general election.

21. (1) Subject to the provisions of any other law on the subject for the time being in force and notwithstanding anything to the contrary contained in section 20,—

(i) in any area which was included within the Maniktala Municipality or the Cossipur-Chitpur Municipality before the commencement of this Act and which under this Act is included in any of the constituencies mentioned in column 1 of Schedule IV—

(a) any person whose name was entered in the general register of voters prepared under the provisions of section 15 of the Bengal Municipal Act, 1884, and the rules made thereunder for the last election held in the said municipalities, and

(b) any female person who may apply to the Executive Officer, claiming to be registered as an elector and stating her qualifications therefor, and who satisfies the Executive Officer that she possesses the qualifications prescribed in the case of males in the rules made under section 15 of the Bengal Municipal Act, 1884,

shall be deemed to be qualified as an elector for the purposes of the first general election

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(Part II—Chapter III—Election and appointment of Councillors and Aldermen—Section 21.)

to be held under the proviso to sub-section (3) of section 1, or any by-election held prior to the second general election in that constituency, and shall have the rights and be subject to the disabilities of an elector under this Act,

- (ii) in any area added to Calcutta which was included within the South Suburban Municipality before the commencement of this Act, and which under this Act is included in any of the constituencies mentioned in column I of Schedule IV—

(a) any person whose name was entered in the general register of voters prepared under the provisions of section 15 of the Bengal Municipal Act, 1884 and the rules made thereunder, for the last election held in the South Suburban Municipality so far as the names in the said general register relate to the area added to Calcutta, and

(b) any female person who may apply to the Executive Officer claiming to be registered as an elector and stating her qualifications therefor, and who satisfies the Executive Officer that she possesses the qualifications prescribed in the case of males in the rules made under section 15 of the Bengal Municipal Act, 1884,

if his or her qualifications arose by virtue of rates paid on account of a holding lying within (or his or her occupation of a holding within) the said area, shall be entitled to vote at the first general election referred to in this sub-section or any by-election in the said constituency held prior to the second general election in that constituency, and shall have the rights and be subject to the disabilities of an elector under this Act; and

- (iii) in any area added to Calcutta which was included in the Garden Reach Municipality before the commencement of this Act and which under this Act is included in any of the constituencies mentioned in column I of Schedule IV—

any male or female person who may apply to the Executive Officer

(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Section 22.)

claiming to be registered as an elector and stating his or her qualifications therefor, and who satisfies the Executive Officer that he or she possesses the qualifications prescribed in the case of males in the rules made under section 15 of the Bengal Municipal Act, 1884, shall be entitled to vote at the first general election referred to in this sub-section or any by-election in the said constituency held prior to the second general election in that constituency and shall have the rights and be subject to the disabilities of an elector under this Act.

(2) The electoral rolls for the constituencies in which such areas are included shall be prepared so as to comprise the names of the male and female persons who may be found to be qualified as electors under the provisions of sub-section (1) in respect of the areas referred to in that sub-section, subject to the provisions of section 25 and the rules made thereunder, so far as may be necessary, in respect of all claims and objections to the entry of such names in the electoral rolls.

(3) Any person entitled to vote under this section shall be deemed to be registered on the electoral roll of the Corporation and, subject to the provisions of this chapter, to be eligible for election as a Councillor.

(4) The Local Government may issue such orders as they may consider necessary to give effect to the provisions of this section in regard to the holding of the first general election or any by-election of any constituency referred to in sub-section (1) and in regard to any matters incidental or ancillary thereto.

General dis-
qualifications for
being a Councillor
or Alderman.

22. (1) A person shall not be eligible for election or appointment as a Councillor or for election as an Alderman if such person—

- (a) has been adjudged by a competent court to be of unsound mind; or
- (b) is under twenty-one years of age; or
- (c) is an undischarged insolvent; or
- (d) being a discharged insolvent, has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or

of 1923.]

(Part II—Chapter III—Election and appointment of Councillors and Aldermen—Section 22)

- (e) is a municipal officer or servant, or a plumber or building surveyor licensed under this Act, or
- (f) is President of the Tribunal of the Board of Trustees for the Improvement of Calcutta, or an assessor to that Tribunal, or a Judge of a Court of Small Causes, or a Municipal Magistrate, or is acting in any of those capacities, or
- (g) has, directly or indirectly, by himself or by his partner or employer or any employé, any share or interest in any contract or employment with, by, or on behalf of, the Corporation

Provided as follows —

(a) notwithstanding anything contained in clause (g), no person shall be deemed to be disqualified thereunder by reason only of his having a share or interest in—

- (i) any lease, sale or purchase of land or any agreement for the same, or
- (ii) any agreement for the loan of money or any security for the payment of money only, or
- (iii) any newspaper in which any advertisement relating to the affairs of the Corporation is inserted, or
- (iv) any incorporated company which contracts with or is employed by the Corporation,

(b) no Councillor or Alderman who has, directly or indirectly, by himself or by his partner or employer or any employé, a share or interest in any matter or thing described in proviso (a), or who has acted professionally on behalf of any person having such share or interest, shall vote or take any part in any proceeding relating to that matter or thing.

(2) A person against whom a conviction by a criminal court for an offence involving moral turpitude and carrying with it a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election or appointment for five years from the date of the expiration of the sentence

(3) Notwithstanding anything contained in the Indian Elections Offences and Inquiries Act, 1920, if any person is convicted of an offence under Chapter IX-A of the Indian Penal Code¹ punishable

Act XXXIX of 1920

Act XLV of 1860

(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Section 22.)

claiming to be registered as an elector and stating his or her qualifications therefor, and who satisfies the Executive Officer that he or she possesses the qualifications prescribed in the case of males in the rules made under section 15 of the Bengal Municipal Act, 1884, shall be entitled to vote at the first general election referred to in this sub-section or any by-election in the said constituency held prior to the second general election in that constituency and shall have the rights and be subject to the disabilities of an elector under this Act.

(2) The electoral rolls for the constituencies in which such areas are included shall be prepared so as to comprise the names of the male and female persons who may be found to be qualified as electors under the provisions of sub-section (1) in respect of the areas referred to in that sub-section, subject to the provisions of section 25 and the rules made thereunder, so far as may be necessary, in respect of all claims and objections to the entry of such names in the electoral rolls.

(3) Any person entitled to vote under this section shall be deemed to be registered on the electoral roll of the Corporation and, subject to the provisions of this chapter, to be eligible for election as a Councillor.

(4) The Local Government may issue such orders as they may consider necessary to give effect to the provisions of this section in regard to the holding of the first general election or any by-election of any constituency referred to in sub-section (1) and in regard to any matters incidental or ancillary thereto.

22. (1) A person shall not be eligible for election or appointment as a Councillor or for election as an Alderman if such person—

- (a) has been adjudged by a competent court to be of unsound mind; or
- (b) is under twenty-one years of age; or
- (c) is an undischarged insolvent; or
- (d) being a discharged insolvent, has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or

of 1923.]

(Part II—Chapter III—Election and appointment of Councillors and Aldermen—Section 22)

- (e) is a municipal officer or servant, or a plumber or building surveyor licensed under this Act; or
- (f) is President of the Tribunal of the Board of Trustees for the Improvement of Calcutta, or an assessor to that Tribunal, or a Judge of a Court of Small Causes, or a Municipal Magistrate, or is acting in any of those capacities, or
- (g) has, directly or indirectly, by himself or by his partner or employer or any employé, any share or interest in any contract or employment with, by, or on behalf of, the Corporation

Provided as follows —

(a) notwithstanding anything contained in clause (g), no person shall be deemed to be disqualified thereunder by reason only of his having a share or interest in—

- (i) any lease, sale or purchase of land or any agreement for the same; or
- (ii) any agreement for the loan of money or any security for the payment of money only, or
- (iii) any newspaper in which any advertisement relating to the affairs of the Corporation is inserted, or
- (iv) any incorporated company which contracts with or is employed by the Corporation,

(b) no Councillor or Alderman who has, directly or indirectly, by himself or by his partner or employer or any employé, a share or interest in any matter or thing described in proviso (a), or who has acted professionally on behalf of any person having such share or interest, shall vote or take any part in any proceeding relating to that matter or thing.

(2) A person against whom a conviction by a criminal court for an offence involving moral turpitude and carrying with it a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election or appointment for five years from the date of the expiration of the sentence.

(3) Notwithstanding anything contained in the Indian Elections Offences and Inquiries Act, 1920, if any person is convicted of an offence under Chapter IX-A of the Indian Penal Code punishable

Act XXXIV
of 1920

Act XLV of
1920

(Part II.—Chapter III.—Election and appointment of
Councillors and Aldermen.—Sections 23, 24.)

with imprisonment for a term exceeding six months or is, in the course of any proceedings under section 46, found by the High Court to have committed a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II of Schedule II, such person shall not be eligible for election or appointment for five years from the date of such conviction or of the finding of the High Court, as the case may be; and a person found by the High Court in the course of any such proceedings as aforesaid to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

(4) If any person has been a candidate or an election agent at an election as a Councillor under this Act and has failed to lodge any prescribed return of election expenses or has lodged a return which is found, either by the High Court in the course of any proceedings under section 46 or by a Magistrate in a judicial proceeding, to be false in any material particular, such person shall not be eligible for election for five years from the date of such election :

Provided that any disqualification mentioned in sub-sections (2), (3) or (4) may be removed by an order of the Local Government in that behalf.

23. (1) No person shall be eligible for election as a Councillor to represent a general constituency specified in Schedule III unless his name is duly registered on the electoral roll of that or any other general constituency specified in that schedule, and unless, in the case of a seat reserved for Muhamnads, he is himself a Muhammadan.

(2) No person shall be eligible for election as a Councillor to represent a special constituency specified in Schedule III unless his name is registered on the electoral roll of the constituency.

The electoral roll.

24. (1) Every person shall be entitled to have his name registered on the electoral roll of a constituency who has the qualifications specified in section 20 for an elector of that constituency and who is not subject to any of the following disqualifications, namely :—

- (a) has been adjudged by a competent court to be of unsound mind ; or
- (b) is under twenty-one years of age :

Provided that the manager of a lunatic or the guardian of a minor appointed by the Court as such

Qualification for
election as Coun-
cillor.

General condi-
tions of registra-
tion and dis-
qualifications

[of 1923.]

(Part II—Chapter III—Election and appointment of Councillors and Aldermen.—Section 24)

shall be entitled to have his name registered on the electoral roll as the representative of the lunatic or minor, if, but for the provisions of clauses (a) or (b) of sub-section (1) of section 22, as the case may be, such lunatic or minor would have been qualified for election

(2) A company, body corporate, firm, joint family or other association of individuals, as such, shall not be registered in its own name in the electoral roll but if qualified as an elector, may obtain the registration of the name of one of its members, as its representative on such roll

(3) A person shall be entitled to have his name registered only once on the electoral roll of any constituency notwithstanding that he may possess more than one qualification

Provided that a person who is registered as the representative of any company, body corporate, firm, joint family or other association of individuals under sub-section (2) or as the manager of a lunatic or the guardian of a minor shall not therefore be ineligible for registration in his individual capacity on the same electoral roll

(4) Chamber members of the Bengal Chamber of Commerce members of the Calcutta Trades Association, and Commissioners for the Port of Calcutta shall be qualified respectively as electors for the constituency comprising the Chamber, or Association or Trust of which they are such members

Explanation—(a) Chamber member includes any person entitled to exercise the rights and privileges of Chamber membership on behalf of any firm, company, or other corporate body registered as such member

(b) 'Member' includes—

(i) in the case of a firm, any one partner in the firm or, if no such partner is present in Calcutta at the date fixed for the election, any one person empowered to sign for such firm and

(ii) in the case of a company or other corporate body, any one manager, director or secretary of the company or corporate body

(5) If any person is convicted of an offence under Chapter IX-A of the Indian Penal Code¹ punishable with imprisonment for a term exceeding six months or is, in the course of any proceedings under section 16, found by the High Court to have committed a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II of Schedule II, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of five years

(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Section 25.)

from the date of the conviction or the report, as the case may be, or, if not on the electoral roll, shall not be so registered for a like period; and if any person is, in the course of such proceedings as aforesaid, found by the High Court to have committed any other corrupt practice, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of three years from the date of the report or, if not on the electoral roll, shall not be so registered for a like period:

Provided that the Local Government may direct that the name of any person to whom this sub-section applies shall be registered on the electoral roll.

Electoral roll.

25. (1) An electoral roll shall be prepared for every constituency, on which shall be entered the names of all persons appearing to be entitled to be registered as electors for that constituency. It shall be published in the constituency together with a notice specifying the mode in which and the time within which any person whose name is not entered in the roll and who claims to have it inserted therein, or any person whose name is on the roll and who objects to the inclusion of his own name or of the name of any other person on the roll, may prefer a claim or objection to the revising authority.

(2) Subject to the provisions of this Act, the Local Government shall make rules providing for—

- (a) the authority by whom the electoral roll shall be prepared and the particulars to be contained in the roll;
- (b) the time at which the roll shall be prepared;
- (c) the publication of the roll in such manner and in such language as to give it wide publicity in the constituency to which it relates;
- (d) the mode in which and the time within which claims and objections may be preferred;
- (e) the constitution and appointment of revising authorities to dispose of claims and objections;
- (f) the manner in which notices of claims or objections shall be published;
- (g) the place, date, and time at which and the manner in which claims or objections shall be heard;

and may make such rules to provide for other matters incidental or ancillary to the preparation, revision,

of 1923.]

(Part II—Chapter III—Election and appointment of Councillors and Aldermen—Sections 26, 27.)

publication and regular maintenance of the roll as they may consider desirable. Such rules may be made as to rolls generally or any class of rolls or any particular roll.

(3) The orders made by the revising authority shall be final, and the electoral roll shall be amended in accordance therewith and shall, as so amended, be republished in such manner as the Local Government may prescribe.

(4) The electoral roll shall come into force from the date of such republishing, and shall continue in force for a period of three years or for such less period as the Local Government may by rule prescribe, and after the expiration of such period a fresh roll shall be prepared.

(5) If a constituency is called upon to elect a Councillor or Councillors after an electoral roll has ceased to have force and before the completion of the new electoral roll, the old electoral roll shall for the purposes of that election continue to operate as the electoral roll for the constituency.

26. Every person registered on the electoral roll for the time being in force for any constituency shall while so registered be entitled to vote at an election of a Councillor or Councillors for that constituency.

Right to vote

Elections

27. (1) Any person may be nominated as a candidate for election as a Councillor for any constituency for which he is eligible for election under this Act.

Nomination of candidates

(2) On or before the date on which a candidate is nominated the candidate shall make in writing and sign a declaration appointing either himself or some other person who is not disqualified under section 32 for the appointment to be his election agent, and no candidate shall be deemed to be duly nominated unless such declaration has been made.

(3) A candidate who has been duly nominated shall within three days of his nomination deposit with the Executive Officer two hundred and fifty rupees which shall be liable to forfeiture if he withdraws his candidature within seven days of the date fixed for the election or if he fails to secure at the election at least ten *per cent* of the votes cast. Failure to deposit the said amount shall render the nomination void.

(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Sections 28, 29.)

(4) A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be renominated as a candidate for the same election.

Uncontested
elections.

28. (1) In any constituency in which one or more seats are reserved for Muhammadans, the following candidates, provided they are duly nominated, and have not withdrawn their candidature, shall be declared to be duly elected, that is to say:—

(a) if the number of Muhammadan candidates is not greater than the number of Muhammadan Councillors to be elected—all such Muhammadan candidates

(b) if the number of Muhammadan candidates is not less than the number of Muhammadan Councillors to be elected, and the total number of candidates, Muhammadan and non-Muhammadan, does not exceed the number of Councillors to be elected for the constituency—all such Muhammadan and non-Muhammadan candidates:

Provided that, if in any case referred to in clause (a) the number of non-Muhammadan candidates does not exceed the number of vacant seats not reserved for Muhammadans, all such non-Muhammadan candidates shall also be declared to be duly elected.

(2) In any constituency in which seats are not reserved for Muhammadans, if the number of candidates who are duly nominated, and have not withdrawn their candidature, is not more than the number of Councillors to be elected for such constituency, all such candidates shall be declared to be duly elected.

Procedure
election. at

29. (1) In any case not provided for in section 28, a poll shall be taken.

(2) Votes shall be given by ballot and in person. No votes shall be received by proxy.

(3) No votes shall be given either by the Government or by the Corporation.

(4) In plural-Councillor constituencies every elector shall have as many votes as there are Councillors to be elected, but no elector shall give more than one vote to any one candidate.

(5) Votes shall be counted by or under the supervision of the returning officer, and any candidate, or, in the absence of the candidate, a representative duly authorized by him in writing, shall have a right to be present at the time of counting.

of 1923.]

(Part II—Chapter III—Election and appointment of Councillors and Aldermen—Section 30.)

(6) When the counting of the votes has been completed, the returning officer shall forthwith declare the candidate or candidates, as the case may be, to whom the largest number of votes has been given to be elected.

(7) Where an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the returning officer and the candidates and in such manner as he may determine.

(8) The returning officer shall without delay report the result of the election to the Executive Officer, and the name or names of the candidate or candidates elected shall be published in the *Calcutta Gazette*.

30. (1) Subject to the provisions of this Act the Local Government shall make rules providing—

Local Government to make rules regarding the conduct of election

- (a) for the form and manner in, and the conditions on, which nominations may be made, and for the scrutiny of nominations;
- (b) for the appointment of a returning officer for each constituency and for his powers and duties;
- (c) for the appointment of polling stations for each constituency;
- (d) for the appointment of officers to preside at polling stations, and for the duties of such officers;
- (e) for the checking of voters by reference to the electoral roll;
- (f) for the manner in which votes are to be given, and in particular for the case of illiterate voters, or voters under physical or other disability;
- (g) for the procedure to be followed in respect of tender of votes by persons representing themselves to be electors after other persons have voted as such electors;
- (h) for the scrutiny of votes;
- (i) for the safe custody of ballot papers and other election papers, for the period for which such papers shall be preserved, and for the inspection and production of such papers;

and may make such other rules regarding the conduct of elections as they think fit.

(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Sections 31—34.)

(2) In the exercise of the foregoing power rules may be made as to elections generally or any class of elections or in regard to constituencies generally or any class of constituency or any particular constituency.

Multiple elections.

31. (1) If any person is elected by more than one constituency, he shall, by notice in writing signed by him and delivered to the Executive Officer, within seven days from the date of the publication of the result of such election in the *Calcutta Gazette*, choose for which of these constituencies he shall serve, and the choice shall be conclusive.

(2) When any such choice has been made, the Executive Officer shall call upon the constituency or constituencies for which such person has not chosen to serve to elect another person or persons.

(3) If the candidate does not make the choice referred to in sub-section (1), the Executive Officer shall forthwith declare the constituency for which such person shall serve and shall call upon the other constituency or constituencies concerned to elect another person or persons.

Disqualification for being election agent.

32. No person shall be appointed an election agent who is himself ineligible for election as being subject to any disqualification mentioned in section 22.

Revocation of appointment of election agent.

33. (1) The appointment of an election agent, whether the election agent appointed be the candidate himself or not, may only be revoked in writing signed by the candidate and lodged with the officer receiving nominations and shall operate from the date on which it is so lodged.

(2) In the event of such a revocation or of the death of any election agent, whether such event occurs before, during or within one month, or such longer period as the Local Government may allow, after the election, then the candidate shall appoint forthwith another election agent and declare his name in writing to the said officer.

Return of election expenses.

34. (1) Within one month or such longer period as the Local Government may allow after the date of the declaration of the election every candidate, either personally or through his election agent, shall cause to be lodged with the Executive Officer a return of his election expenses containing the particulars specified in Schedule V.

(2) Every such return shall contain a statement of all payments made by the candidate or by his

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(Part II—Chapter III—Election and appointment of Councillors and Aldermen—Sections 35–38)

election agent or by any persons authorized by the candidate to act on his behalf for expenses incurred on account of, or in respect of, the conduct and management of the election, and further a statement of all unpaid claims in respect of such expenses of which he or his election agent is aware

(3) The return shall be accompanied by declarations by the candidate and his election agent which shall be in the form contained in Schedule V and shall be made on oath or affirmation before a Magistrate

(4) The Executive Officer shall cause to be prepared and maintained a record showing the names of all candidates at every election of a Councillor under this Act and the date on which the return of election expenses of each candidate has been lodged with him

35. Every election agent shall keep regular books of account in which the particulars of all expenditure of the nature referred to in section 34 shall be entered, whether such expenditure is incurred by the candidate or by the election agent or by any person under the direction of the candidate or the election agent

Accounts of agents

36. If there is not a sufficient number of valid nominations for an election in any constituency or if the electors of any constituency do not elect the prescribed number of Councillors, the Local Government shall appoint as many Councillors as may be necessary to make up the prescribed number.

Appointment by Local Government to make up the prescribed number

37. Before the date fixed for the first meeting of the Corporation after a general election, the Local Government shall, by notification in the *Calcutta Gazette*, make such appointments of Councillors as may be necessary under clause (b) of section 5 or under section 36

Appointment of Councillors when to be made

38. (1) Notwithstanding anything contained in the Indian Oaths Act, 1873¹, every person who is elected or appointed to be a Councillor or elected an Alderman shall before taking his seat make, at a meeting of the Corporation, an oath or affirmation of his allegiance to the Crown in the following form, namely—

Oath of allegiance to be taken by Councillors and Aldermen

“I, A. B., having been ^{elected a Councillor} ^{appointed an Alderman} of the Corporation do solemnly swear (or affirm) that I will be faithful and bear true allegiance to His Majesty the King-Emperor of India, His heirs and successors, and that I will faithfully discharge the duties upon which I am about to enter.”

(2) Any person who having been elected or appointed to be a Councillor or elected an Alderman

(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Sections 39—41.)

fails to make within three months of the date on which his term of office commences, the oath or affirmation laid down in sub-section (1) shall cease to hold his office and his seat shall be deemed to have become vacant.

Explanation.—A person who by constitutional means endeavours to make changes in the constitution shall not be deemed to have thereby violated his oath of allegiance.

Term of office of Councillors and Aldermen.

39. Subject to the provisions of section 43, an elected Councillor or Alderman shall hold office for a term of three years; and an appointed Councillor shall hold office for a term of three years or for such shorter period as the Local Government may, at the time of appointment, determine. The said term or three years shall commence from the date of the first meeting of the Corporation fixed under section 59 at which a quorum is present and shall be held to include any period which may elapse between the expiry of the said term of three years and the date of the first meeting of the Corporation fixed under section 59 after a general election at which meeting a quorum is present:

Provided that the said period may be extended by the Local Government for a period not exceeding one year, by notification in the *Calcutta Gazette*, if in special circumstances (to be specified in the notification) they so think fit.

Resignation of Councillors or Aldermen.

40. A Councillor or an Alderman may resign his office by notifying in writing his intention to do so, to the Mayor and on the acceptance of the resignation by the Corporation his seat shall become vacant.

Effect of subsequent disabilities.

41. If any person having been elected or appointed a Councillor, or elected an Alderman—

- (a) subsequently becomes subject to any of the disabilities stated in clauses (a), (c), (d), (e), (f) or (g) of sub-section (1) or in sub-sections (2), (3) or (4) of section 22, or
- (b) is declared by the Local Government, by notification in the *Calcutta Gazette* (issued after due inquiry in which the Councillor or Alderman concerned shall have a right to be heard) to have violated his oath of allegiance, or
- (c) absents himself during six consecutive months from the meetings of the Corporation, except from temporary illness or other cause which the Corporation may consider sufficient to justify such absence, or

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(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen—Sections 42—45)

(d) is retained or employed in any professional capacity in connection with any case or matter to which the Corporation is a party, such person shall cease to be a Councillor or an Alderman, and the Local Government shall, by notification in the *Calcutta Gazette*, declare his seat to be vacant

Explanation—The expression “retained or employed in a professional capacity” shall be deemed to include appearance in any professional capacity before the Corporation or any of its Committees or before any officer of the Corporation in any matter to which the Corporation is a party

42. The Local Government may, if they think fit, on the recommendation of the Corporation, made after due inquiry in which the Councillor or Alderman concerned shall have the right to be heard, remove any Councillor or Alderman elected or appointed under this Act, if such Councillor or Alderman has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct

Removal
of
Councillor
Alderman

43. (1) When a vacancy occurs in the case of an elected Councillor or of an Alderman by reason of his seat becoming vacant under the provisions of section 38, or by reason of a declaration made under section 41, or of his election being declared void, or by his death resignation duly accepted, or removal, the Executive Officer shall call upon the constituency concerned or the Councillors, as the case may be, to elect a person for the purpose of filling the vacancy within such time as may be prescribed

Original vacancies

(2) If a vacancy occurs in the case of an appointed Councillor, the Local Government shall appoint to the vacancy a person having the necessary qualifications

(3) Every such person shall remain a Councillor or Alderman for the residue of the term of office of the Councillor or Alderman in whose stead he was elected or appointed.

44. If any difficulty arises as to the preparation or publication of the first electoral rolls or the holding of the first elections the Local Government may by order authorize any matter or thing to be done which appears to them necessary for the proper preparation or publication of the rolls or for the proper holding of the elections.

Power of Local
Government in
respect of first
election

45. (1) Before the expiration of the term of office of the Councillors and Aldermen under section 39, a general election of Councillors shall be held.

General
elections

(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Section 46.)

(2) Such general elections shall take place triennially on a date to be fixed by the Local Government ordinarily in the month of March, or on a date in such other month as the Local Government may fix.

(3) Such elections shall be so fixed as to take place simultaneously in all the constituencies.

(4) The Local Government shall, by notification in the *Calcutta Gazette*, call upon the constituencies referred to in Schedule III to elect Councillors in accordance with this Act within such time as may be prescribed by such notification :

Provided that, if the Local Government think fit, such notification may be issued at any time not being less than three months prior to the date on which the term of office of the Councillors and Aldermen would expire in the ordinary course of events.

Disputes as to the validity of an election.

Hearing of election petitions by High Court.

46. (1) If there is any dispute as to whether any person whose name is published under sub-section (8) of section 29 is qualified to be elected a Councillor, or if the validity of any election is questioned, whether by reason of the commission of any corrupt practice by a candidate or his agent or by any other person or by reason of the improper rejection of a nomination or of the improper reception or refusal of a vote, or for any other cause, any person enrolled in the electoral roll may, at any time within eight days after the said publication, apply to the High Court :

Provided that no election shall be called in question on the ground that—

- (a) the name of any person qualified to vote has been omitted from the electoral roll, or
- (b) the name of any person not qualified to vote has been inserted in that roll, or
- (c) any direction given by any rule made under section 25, sub-section (2), or section 30 has not been obeyed.

(2) If the Court sets aside an election or declares an election to be null and void, a fresh election shall be held.

(3) Every election not called in question in accordance with the provisions of this section shall be deemed to have been to all intents a good and valid election.

of 1923.]

*(Part II—Chapter III—Election and appointment
of Councillors and Aldermen—Section 47)*

47. (1) Save as hereinafter provided in this section, if, in any proceeding duly instituted under section 46, the High Court is of opinion that—

Grounds for
declaring election
void

- (a) the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by a corrupt practice, or
- (b) any corrupt practice specified in Part I of Schedule II has been committed, or
- (c) the result of the election has been materially affected by any irregularity in respect of a nomination paper, or by the improper reception or refusal of a vote, or, save as is provided in section 46, by any non-compliance with the provisions of this Act or the rules made thereunder, or by any mistake in the use of any form annexed thereto,

the election of the returned candidate shall be void

(2) If in such proceeding the Court is of opinion that a returned candidate has been guilty by an agent (other than his election agent) or any other person of any corrupt practice specified in Part I of Schedule II which does not amount to any form of bribery other than treating as hereinafter explained or to the procuring or abetment of personation, and if the Court is also of opinion that the candidate has satisfied it that—

- (a) no corrupt practice was committed at such election by the candidate or his election agent, and the corrupt practices mentioned in the report were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent, and
- (b) such candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at such election, and
- (c) the corrupt practices mentioned in the said report were of a trivial, unimportant and limited character and

(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Sections 48, 49.)

(d) in all other respects the election was free from any corrupt practice on the part of such candidate or any of his agents,

when the Court may find that the election of such candidate is not void.

Explanation.—For the purposes of this sub-section “treating” means the incurring in whole or in part by any person of the expense of giving or providing any food, drink, entertainment or provision to any person with the object, directly or indirectly, of inducing him or any other person to vote or refrain from voting or as a reward for having voted or refrained from voting.

Operation of
transitory provi-
sions.

Transitory pro-
visions to have
effect at elections
prior to the fourth
general election.

48. The provisions of this Act relating to elections of Councillors by general electorates are subject to the provisions of sections 49 and 50.

49. (1) Notwithstanding anything contained elsewhere in this Act, the provisions of this section shall apply in respect of the election of Councillors at the first three general elections, held under this Act or in the manner provided therein, and at any by-election held prior to the fourth general election.

(2) Subject to the provisions of any other law for the time being in force every Muhammadan shall be qualified as an elector of a Muhammadan constituency specified in Schedule IV, who owns or occupies or resides in any premises, or exercises any profession, trade or calling, within that constituency, if such person possesses the qualification set forth in clause (a), clause (b) or clause (c) of sub-section (1) of section 20.

(3) No person shall be eligible for election as a Councillor to represent a Muhammadan constituency unless his name is duly registered in the electoral roll of that or any other Muhammadan constituency.

(4) In the case of the elections referred to in sub-section (1)—

(a) for section 8 the following shall be deemed to be substituted, namely:—

“8. The elected Councillors shall be elected by the constituencies specified in Schedule IV, and the number of Councillors to be elected by each constituency shall be as stated therein against that constituency.”

of 1923.]

(Part II—Chapter III—*Election and appointment of Councillors and Aldermen*—Section 49.)

(b) for that portion of sub-section (1) of section 20 beginning with the figure and words "(1) Subject to" and ending with the words "specified in Schedule III", the following shall be deemed to be substituted, namely —

"(1) Subject to the provisions of any other law on the subject for the time being in force, every person, other than a Muhammadan, shall be qualified as an elector of a non-Muhammadan constituency specified in Schedule IV",

(c) for section 23 the following shall be deemed to be substituted, namely —

"23 (1) No person shall be eligible for election as a Councillor to represent a non-Muhammadan constituency specified in Schedule IV, unless his name is duly registered on the electoral roll of that or any other non-Muhammadan constituency specified in that schedule

(2) No person shall be eligible for election as a Councillor to represent a special constituency specified in Schedule IV, unless his name is registered on the electoral roll of that constituency."

(d) in sub-section (1) of section 24 for the words and figures "specified in section 20" the word "prescribed" shall be deemed to be substituted,

(e) to sub-section (2) of section 24 the following shall be deemed to be added, namely —

"and notwithstanding anything contained elsewhere in this Act the electoral roll on which such representative shall be entitled to be registered shall be the electoral roll of the non-Muhammadan or Muhammadan constituency, as the case may be, for the electoral area in respect of which such company or other association is entitled to be an elector, according as such representative is or is not a Muhammadan."

(Part II.—Chapter III.—Election and appointment of Councillors and Aldermen.—Chapter IV.—Municipal officers and servants.—Sections 50, 51.)

(f) for section 28 the following shall be deemed to be substituted, namely:—

“28. In any constituency, if the number of candidates, who are
Uncontested elections. duly nominated, and have not withdrawn their candidature, is not more than the number of Councillors to be elected for that constituency, all such candidates shall be declared to be duly elected.”

(g) in sub-section (f) of section 45 for the word and figures “Schedule III” the word and figures “Schedule IV” shall be deemed to be substituted,

(h) in sub-section (2) of section 483 after the words “of Councillors” in the first place where they occur the words “by non-Muhammadan and Muhammadan constituencies” shall be deemed to be inserted and for the word and figures “Schedule III” the word and figures “Schedule IV” shall be deemed to be substituted.

(5) The provisions of other sections applying to the election of Councillors by, and the electoral roll of, general constituencies shall apply so far as may be necessary to the election of Councillors by, and the electoral roll of, the non-Muhammadan and Muhammadan constituencies.

50. For the purposes of the election of Councillors during the period referred to in sub-section (1) of section 49, Schedule IV shall be deemed to be substituted for Schedule III.

CHAPTER IV.

MUNICIPAL OFFICERS AND SERVANTS.

51. (1) The Corporation shall appoint proper persons, for such periods respectively as they think fit, to be Chief Executive Officer, Chief Engineer, Chief Accountant, Health Officer and Secretary, and shall fix the monthly salary and allowances to be paid to the persons so appointed.

The Corporation may also appoint, for such periods as they think fit, not more than two Deputy Executive

Temporary
substitution
Schedule IV
Schedule III.
of
for

Appointment
and salary of
principal officers.

of 1923.]

(Part II—Chapter IV—Municipal officers and servants—Sections 52, 53)

Officers, and may fix their monthly salaries and allowances

Provided that the appointment, salary allowances and conditions of service of the Chief Executive Officer, Chief Engineer, Health Officer and Deputy Executive Officer or officers and any action taken by the Corporation with a view to the termination of their appointment shall be subject to the approval of the Local Government

(2) The Corporation may appoint such other officers and servants for such periods, respectively, as they think fit, and may fix their salaries and allowances

52. The Executive Officer shall be the principal executive officer of the Corporation, and all other officers and servants of the Corporation shall be subordinate to him. He shall have the same right of being present at any meeting of the Corporation, or of any Standing or Special Committee, and of taking part in the discussions thereat as if he were a member of the Corporation or of such Committee, and with the consent of the Mayor or the President of the meeting, as the case may be, he may at any time make a statement or explanation of facts, but he shall not vote upon, or make, any proposition at such meeting

Power of the Executive Officer

53. (1) No person shall be eligible for employment as a municipal officer or servant if he has, directly or indirectly, by himself or his partner or employer or employe, any share or interest in any contract or employment with, by, or on behalf of, the Corporation

Prohibition of having share or interest in contract or employment with Corporation

(2) Every person applying for employment as a municipal officer or servant shall, if he is related by a blood relationship to, or is closely connected by marriage with, the Mayor or any Alderman or Councillor or any statutory officer of the Corporation, notify in writing such relationship or connection to the Corporation or municipal officer making such appointment, and if he fails to do so before he is appointed, his appointment to such post may at any time be terminated

(3) If any municipal officer or servant acquires directly or indirectly as aforesaid, any share or interest as aforesaid, otherwise than as such officer or servant, he shall cease to be a municipal officer or servant and his office shall become vacant

(4) Nothing in the foregoing subsections shall apply to any such share or interest as, under sub-section (1) or clause (iv) of proviso (a) to section 52, is

(Part II.—Chapter IV.—Municipal officers and servants.—Sections 54—56.)

permissible for a Councillor or an Alderman to have without being thereby disqualified for being a Councillor or an Alderman.

Indebtedness to
disqualify for
office under sec-
tion 51

54. (1) No person shall be eligible for any office mentioned or referred to in section 51 if he is seriously indebted to any person.

(2) If any person holding any of the said offices becomes so indebted, the Corporation may, subject to the proviso to sub-section (1) of section 51, declare his office to be vacant.

Contribution in
respect of pension
or leave-allowan-
ces of Government
servants appointed
to be municipal
officers or servants.

55. When a servant of the Government is appointed to be a municipal officer or servant, the Corporation shall pay, out of his salary, any contribution which may for the time being be levied by the Government in respect of his pension or leave-allowances.

Power to Cor-
poration to make
rules as to
furnishing secu-
rity and grant of
leave of absence
and allowances.

56. The Corporation, by a resolution in favour of which not less than two-thirds of the Councillors and Aldermen voting have voted, may make rules—

- (a) fixing the amount and nature of the security to be furnished by any municipal officer or servant from whom it may be deemed expedient to require security;
- (b) regulating the grant of leave of absence; allowances, pensions, bonuses and gratuities to municipal officers and servants;
- (c) regulating the grant of compassionate allowances and gratuities to members of the families of deceased municipal officers and servants;
- (d) for establishing and maintaining a provident or annuity fund, and for compelling all or any of the municipal officers or servants to contribute to such fund, and for making supplementary contributions out of the municipal fund; and
- (e) for establishing and aiding in the establishment and maintenance of co-operative societies for the menials of the Corporation:

Provided that no pension, gratuity or compassionate allowance referred to in clauses (b) and (c) shall, save with the special sanction of the Local Government, exceed the sum to which under any general or special orders of the Government of India for the time being in force, such officer or servant

of 1923.]

(Part II.—Chapter IV —Municipal officers and servants — Chapter V —Conduct of business — Sections 57—60)

or his family would be entitled if the service had been service under Government

Provided also that the municipal officers and servants who were formerly in the Plague Department of the Local Government shall be entitled to the benefits of the aforesaid provident or annuity fund and gratuities in respect of the period of their services in that department on their paying within six months from the commencement of this Act their share of contribution to the said fund for the said period in accordance with the rules hitherto in force

57. (1) The Corporation may, in accordance with the rules made under section 56, grant—

Grant of pensions, gratuities, and compassionate allowances

(a) pensions, allowances, honours and gratuities to municipal officers and servants, and

(b) compassionate allowances and gratuities to members of the families of deceased municipal officers and servants,

and may also supplement contributions to a Provident Fund in accordance with the said rules

(2) For the purposes of this chapter the family of a municipal officer or servant shall be deemed to include his wife, his children, and his father, mother, brother or sister, dependent upon him for support

CHAPTER V.

CONDUCT OF BUSINESS

Transaction of business by the Corporation.

58. (1) The Corporation shall meet not less than once a month for the transaction of business Meetings.

(2) The Mayor or, in his absence, the Deputy Mayor may, whenever he thinks fit, and shall upon a requisition made in writing by any ten Councillors or Aldermen, call a meeting of the Corporation

59. The first meeting of the Corporation after a general election of Councillors shall be held as early as conveniently may be in the month of April next following such election and shall be convened by the Executive Officer.

First meeting after general election

60. A list of the business to be transacted at every meeting shall be sent to the address of each Councillor and Alderman resident in Calcutta, so that it may be in his hands not less than forty eight hours

Notice of meetings and business

*(Part II.—Chapter V.—Conduct of business.—
Sections 61—64.)*

before the time fixed for such meeting; and no business shall be brought before, or transacted at, any meeting other than the business of which notice has been so given:

Provided that any Councillor or Alderman may submit to a meeting any resolution going beyond the matters mentioned in the notice given of such meeting, if he has given not less than forty-eight hours' previous notice of his intention so to do, by leaving a copy of such resolution at the Municipal Office.

Vote of majority decisive.

61. All acts authorized or required to be done by the Corporation, and all questions which may come before the Corporation for decision, shall, save as is in this Act otherwise provided, be respectively done and decided by a majority of the Councillors and Aldermen voting at the meeting before which the matter is brought.

President meeting at

62. (1) The Mayor, or, in his absence, the Deputy Mayor shall preside at every meeting of the Corporation, and shall have a second or casting vote in all cases of equality of votes.

(2) In the absence of the Mayor and Deputy Mayor, the Councillors and Aldermen present at any meeting shall choose one of their number to preside, who shall in case of equality of votes have a second or casting vote.

(3) The President of any meeting at which a quorum of the Councillors and Aldermen is present may, with the consent of a majority of the members present, adjourn the meeting from time to time and from place to place.

Quorum.

63. No business shall be transacted at any meeting unless a quorum of twenty members be present throughout the meeting:

Provided that, if at any meeting there is not a sufficient number of members present to form a quorum, the President of such meeting shall adjourn the meeting to such convenient time and place as he thinks fit; and the business which should have been brought before the original meeting, if there had been a quorum present, shall be brought forward and disposed of in the usual manner at the adjourned meeting, at which a quorum of fifteen members shall suffice.

Declaration by President that a resolution has been carried or cost.

64. At any meeting, unless a poll be demanded by at least five members, a declaration by the President of such meeting that a resolution has been carried or lost, and an entry to that effect in the

of 1923.]

*(Part II—Chapter V—Conduct of business—
Sections 65—66)*

minutes of proceedings shall, for the purposes of this Act, be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution

65. If a poll be demanded under section 61, the votes of all the members present who desire to vote shall be taken under the direction of the President of the meeting, and the result of such poll shall be deemed to be the resolution of the Corporation at such meeting

Poll and ballot

Provided that the Corporation may, subject to such rules as may be made by them under section 66, resolve that any question or class of questions shall be decided by ballot.

66. The Corporation may make rules for the conduct of business at their meetings.

Power to Corporation to make rules

Contracts and Seal of Corporation

67. (1) The Corporation may enter into and perform all such contracts as they may consider necessary or expedient for carrying into effect the provisions of this Act

Execution of contracts by the Mayor or Deputy Mayor on behalf of the Corporation

(2) With respect to the making of such contracts the following provisions shall have effect, namely—

- (a) Every such contract shall be made on behalf of the Corporation by the Mayor or Deputy Mayor,
- (b) no contract shall be made by the Mayor or Deputy Mayor unless the same is previously sanctioned by the Corporation.
- (c) no contract involving an expenditure exceeding two and a half lakhs of rupees shall be made by the Mayor or Deputy Mayor unless the same is previously sanctioned by the Corporation and the Local Government

(3) The foregoing provisions of this section shall apply to every variation or discharge of a contract as well as to an original contract

68. (1) Every contract made by the Mayor or Deputy Mayor on behalf of the Corporation shall be entered into in such manner and form as would bind the Mayor or Deputy Mayor if such contract were made on his own behalf, except that the common seal of the Corporation shall be used (where necessary); and every such contract may in the like manner and form be varied or discharged

Further provisions as to execution of contracts, and provisions as to seal of Corporation

*(Part II.—Chapter V.—Conduct of business.—
Section 69.)*

(2) Every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees shall be in writing, shall be sealed, and shall specify—

- (a) the work to be done or the materials or goods to be supplied, as the case may be,
- (b) the price to be paid for such work, materials or goods, and
- (c) the time or times within which the contract or specified portions thereof shall be carried out.

(3) The common seal of the Corporation shall remain in the custody of the Secretary to the Corporation, and shall not be affixed to any contract or other instrument except in the presence of a Councillor or an Alderman, who shall attach his signature to the contract or instrument in token that the same was sealed in his presence.

(4) The signature of the said Councillor or Alderman shall be distinct from the signature of any witness to the execution of such contract or instrument.

(5) A contract not executed as provided in this section shall not be binding on the Corporation.

Tenders.

69. (1) Not less than seven days before the Corporation enter into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees, they shall give notice by advertisement in local newspapers inviting tenders for such contract.

(2) In every case in which the acceptance of a tender would involve an expenditure exceeding one thousand rupees, the specifications, conditions and estimates, and all the tenders received shall be placed before the Corporation.

(3) In every case in which the acceptance of a tender would involve an expenditure exceeding two and a half lakhs of rupees, the Corporation shall submit to the Local Government the specifications, conditions and estimates, and all the tenders received, specifying the particular tender (if any) which they recommend for acceptance.

(4) The Corporation, or the Local Government, as the case may be, may reject all or any of the tenders made under the provisions of this section.

of 1923.]

(Part II—Chapter V—Conduct of business—
Sections 70, 71)

(5) Notwithstanding anything contained in this section, the Corporation, by a resolution in favour of which not less than two-thirds of the Councillors and Aldermen voting have voted, may, for reasons which shall be recorded in their proceedings, enter into a contract involving an expenditure not exceeding five thousand rupees without inviting tenders or without the acceptance of any tender which may have been received.

70. The Corporation shall take sufficient security for the due performance of every contract into which they enter under this Act Security for performance of contract

Standing Committees

71. (1) The Corporation may each year appoint Standing Committees and, by specific resolution, delegate any of their functions, powers or duties to such Committees, and may also from time to time, by a like resolution, refer to them for inquiry and report, or for opinion, such subjects relating to the functions, powers or duties of the Corporation as the Corporation may think fit. Standing Committees

(2) A Standing Committee shall not consist of more than twelve members, and no Councillor or Alderman shall, at the same time, be a member of more than two Standing Committees and the District Committee.

(3) Every Standing Committee shall conform to any instructions that may from time to time be given to them by the Corporation.

(4) The Corporation may at any time dissolve, or subject to the provisions of sub-section (2), alter the constitution of any Standing Committee, and may also at any time withdraw from any Standing Committee any of the functions, powers or duties delegated to them under sub-section (1).

(5) Every Standing Committee shall appoint two of their number to be their Chairman and Deputy Chairman.

Provided that no Councillor or Alderman shall, at the same time, be the Chairman or Deputy Chairman of more than one Standing Committee.

(6) In the absence of the Chairman or Deputy Chairman, the members of the Standing Committee present shall choose one of their number to preside over their meeting.

*(Part II.—Chapter V.—Conduct of business.—
Sections 72, 73.)*

(7) When any matter is referred to a Standing Committee, the Corporation may fix a time within which the report of the Standing Committee thereon is to be submitted to the Corporation.

(8) All the proceedings of every Standing Committee shall be subject to confirmation or revision by the Corporation :

Provided that, if, in delegating any of their functions, powers or duties to a Standing Committee under sub-section (1), the Corporation direct that the decision of the Standing Committee shall be final, then so much of the proceedings of the Standing Committee as relate to such functions, powers or duties shall not be subject to confirmation by the Corporation.

(9) The Corporation may make rules for regulating the conduct of business at meetings of Standing Committees and of Sub-committees appointed by them.

District Stand-
ing Committees.

72. (1) The Corporation may from time to time divide Calcutta into such districts consisting of different wards as they may think fit and appoint a Standing Committee, to be called the District Committee, for each such district and delegate to such Committees such functions, powers or duties of the Corporation as the Corporation may think fit relating to matters affecting their respective districts, and may also from time to time, by specific resolution, refer to them for inquiry and report or for opinion such matters relating to such districts as the Corporation may think fit.

(2) Each such District Committee shall consist of all the Councillors for the several constituencies comprised in each district and any Alderman or other Councillor living within the district and expressing his willingness to serve on such Committee.

(3) The District Committee shall associate with themselves not more than three persons, residing within such district. Such persons shall be elected by the Committee every year in such manner as may be prescribed by rules made by the Corporation in this behalf. Such associated members shall hold office for one year and shall be entitled to vote.

Primary Edu-
cation Standing
Committee.

73. (1) The Corporation shall appoint a Standing Committee, to be called the Primary Education Standing Committee to advise them in regard to all matters relating to primary education in Calcutta.

of 1923.]

*(Part II — Chapter V — Conduct of business —
Sections 74, 75)*

(2) Such Committee shall consist of not more than six Councillors or Aldermen and of such other persons (not exceeding three in number), as the Corporation may from time to time and for such period as they think fit, by a specific resolution, associate with the Committee

(3) Persons so associated with the Committee shall have a right to vote at meetings of the Committee, and shall be deemed to be members thereof for all purposes during the said period

74. (1) Any Standing Committee of the Corporation may appoint one or more Sub-committees for any purpose referred to them which, in their opinion, can be more usefully carried out by a Sub-committee

sub-committees
of Standing Com-
mittees

(2) A Sub-committee may be appointed for such time and subject to such limitations and conditions as to report and otherwise as the Standing Committee appointing the Sub-committee may from time to time think fit

(3) No Sub-committee shall continue to exist after the Standing Committee appointing it has ceased to exist

(4) All proceedings of any Sub-committee shall be subject to confirmation by the Standing Committee appointing it

(5) It shall not be necessary for any of the members of a Sub-committee to be a member of the Standing Committee appointing such Sub-committee

Special Committees

75. (1) The Corporation may from time to time, by specific resolution, appoint a Special Committee to inquire into and report upon any matter (to be specified in such resolution) which may arise in connection with any of the functions, powers or duties of the Corporation and which is not at the time under consideration by a Standing Committee constituted under section 71.

Special Com-
mittees

(2) The Corporation may also from time to time, by specific resolution, associate with any such Special Committee, for such period as they think fit, any persons, who are not Councillors or Aldermen, but whose assistance or advice is required for the purposes for which the Special Committee is appointed and such persons shall have a right to vote at

*(Part II.—Chapter V.—Conduct of business.—
Sections 76—78.)*

meetings of the Special Committee, and shall be deemed to be members thereof for all purposes during the said period.

(3) The provisions of sub-sections (3), (4), (5) (excluding the proviso), (6), (7) and (8) (excluding the proviso) of section 71 shall, with all necessary modifications, be deemed to apply to every Special Committee appointed under this section and such Committee shall confine their inquiry to the matter specified in the resolution referred to in sub-section (1).

(4) The Corporation may make rules for regulating the conduct of business at meetings of Special Committees.

Minutes and reports of proceedings.

76. Minutes, in which shall be recorded the names of the members present at, and the proceedings of, each meeting of the Corporation, and of every Standing or Special Committee, respectively, shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be laid before the next ensuing meeting of the Corporation or of such Committee, as the case may be, and signed at such meeting by the Mayor or President thereof.

77. The minutes referred to in section 76 and the full reports (if any) of the proceedings of meetings of the Corporation, shall, at all reasonable times, be kept open at the municipal office for the inspection of any Councillor or Alderman without charge, and of any other person on payment of a fee of eight annas.

78. The Executive Officer shall forward to the Local Government a copy of the minutes of the proceedings of each meeting of the Corporation, within ten days from the date on which the minutes of the proceedings of such meeting were signed as prescribed in section 76;

and, if the Local Government so direct in any case, shall also forward a copy of all papers which were laid before the Corporation or the Standing or Special Committee, as the case may be, for consideration at such meeting;

and shall also forward to the Local Government, as soon as may be after such date, a full report of the proceedings of meetings of the Corporation, if any such report be prepared.

Keeping of minutes of proceedings.

Inspection of minutes and reports of proceedings.

Forwarding of minutes and reports of proceedings to Local Government.

of 1923.]

*(Part II—Chapter V—Conduct of business—
Part III—Chapter VI—The Municipal Fund.—
Sections 79—82.)*

Supplemental provisions

79. (1) No act done or proceeding taken under this Act shall be questioned on the ground merely of—

Validation of
acts and proceed-
ings

- (a) the existence of any vacancy in, or any defect in the constitution of, the Corporation, or any Standing or Special Committee,
- (b) any Councillor or Alderman having voted or taken part in any proceeding in contravention of proviso (b) to section 22, or
- (c) any defect or irregularity not affecting the merits of the case

(2) Every meeting of the Corporation, or of any Standing or Special Committee, the minutes of the proceedings of which have been duly signed as prescribed in section 76, shall be deemed to have been duly convened and to be free from all defects and irregularity.

PART III.

FINANCE.

CHAPTER VI.

THE MUNICIPAL FUND

80. There shall be one Municipal Fund, and it shall be held by the Corporation in trust for the purposes of this Act, subject to the provisions therein contained.

Municipal Fund
to be sole and to
be held in trust.

81. (1) All moneys realized or realizable under this Act shall be credited to the Municipal Fund.

Credit of
moneys
Municipal Fund

(2) The balances standing at the credit of the several municipal funds of the Corporation at the commencement of this Act, and all interest and profits arising from any investment and from any transaction in connection with any of the said municipal funds shall be transferred to the said Municipal Fund.

82. All moneys payable to the credit of the Municipal Fund shall be forthwith paid into the Imperial Bank of India to the credit of an account

Receipt of
moneys
deposited in bank.

(Part III.—Chapter VI.—The Municipal Fund.—
Sections 83, 84.)

which shall be styled “the account of the Municipal Fund of the City of Calcutta”:

Provided that, with the sanction of the Local Government, any moneys accruing from any of the several funds of the Corporation, which, at the commencement of this Act, are held in deposit by any bank or banks in Calcutta other than the Imperial Bank of India may be left in such deposit by the Corporation for such period as they think fit.

Drafts on the
Municipal Fund.

83. (1) Subject to the provisions of sections 18, 118 and 119, no payment shall be made by the Imperial Bank of India out of the Municipal Fund except upon a cheque signed—

(a) by any two of the following persons, namely:—

- (i) the Executive Officer,
- (ii) the Deputy Executive Officer,
- (iii) the Secretary,
- (iv) the Chief Accountant, or,

(b) in the event of the illness or absence from Calcutta of any three of the persons mentioned in clause (a), by the remaining one of such persons and any other person appointed in that behalf by the Executive Officer, or,

(c) in the event of the illness or absence from Calcutta of all the persons mentioned in clause (a), by any two other persons appointed in that behalf by the Executive Officer and approved by the Corporation.

(2) Except in the case of salaries up to three hundred rupees, which may be paid in cash, payment of any sum due by the Corporation exceeding one hundred rupees in amount shall be made by means of a cheque signed as provided in sub-section (1), and not in any other way.

(3) Payment of any sum due by the Corporation not exceeding one hundred rupees in amount may be made in cash, cheques signed as prescribed in sub-section (1) being drawn from time to time to cover such payments.

84. (1) The moneys from time to time credited to the Municipal Fund shall be applied in payment of all sums, charges and costs necessary for carrying out the purposes of this Act, or of which the payment is duly directed or sanctioned by or under any of the provisions of this Act.

Application of
Municipal Fund.

of 1923.]

(Part III—Chapter VI.—The Municipal Fund.—
Section 85)

(2) Such moneys shall likewise be applied in payment of all sums payable out of the Municipal Fund under any other enactment for the time being in force

85. No payment of any sum out of the Municipal Fund shall be made unless the expenditure of the same is covered by a current budget-grant and a sufficient balance of such budget-grant is still available notwithstanding any reduction or transfer thereof which may have been made under section 95 or section 96

Payments not to be made out of Municipal Fund unless covered by budget grant and balance is available

Provided that this section shall not apply to payments made in the following classes of cases, namely—

- (a) funds of taxes and other moneys which are authorized by this Act,
- (b) payments of moneys belonging to contractors or other persons and held in deposit and of moneys collected or credited to the Municipal Fund by mistake,
- (c) sums payable in any of the following circumstances—
 - (i) under section 18, under the orders of the Local Government,
 - (ii) under section 81, sub-section (2), or
 - (iii) under the direction of any officer appointed under section 118 or section 119,
 - (iv) under the decree or order of a civil or criminal court passed against the Corporation,
 - (v) under a compromise of any suit or other legal proceeding or claim effected under section 537,
- (d) temporary payments under section 88 for works urgently required for the public service,
- (e) sums which are by or under section 252, sub-section (2), section 301, sub-section (2), section 301, sub-section (1), section 312, sub-section (2), section 389, sub-section (4), section 410, sub-section (2), section 412, sub-section (1), section 508, sub-section (3), section 520, clause (c) of sub-section

(Part III.—Chapter VI.—The Municipal Fund.—
Sections 86—89.)

(2) of section 535, or rule 2, sub-rule (6), of Schedule XVI, required or allowed to be paid by way of compensation;

(f) sums payable as compensation under any rule or by-law made under this Act; and

(g) expenses incurred by the Corporation in the exercise of the powers conferred by section 447.

Duty of person signing cheque.

86. Before any person authorized under section 83 signs a cheque, he shall satisfy himself that the sum for which such cheque is drawn is either—

(a) required for a purpose or work specifically sanctioned by the proper authority and covered by a current budget-grant, or

(b) required for any payment referred to or specified in the proviso to section 85.

Procedure when money not covered by a budget-grant is expended under clauses (c), (e), (f), or (g) of section 85.

87. Whenever any sum is expended under clauses (c), (e), (f) or (g) of the proviso to section 85, the Corporation shall take such action under section 95 as may in the circumstances appear possible and expedient for covering the amount of the additional expenditure; and all sums expended under clause (g) of the said proviso shall be forthwith reported to the Corporation.

Temporary payments from the Municipal Fund for works urgently required for the public service.

88. (1) On the written requisition of a Secretary to the Local Government, the Corporation may at any time undertake the execution of any work certified by such Secretary to be urgently required for the public service, and for this purpose may temporarily make payments from the Municipal Fund, so far as the same can be made without unduly interfering with the regular working of the municipal administration.

(2) The cost of all work so executed and of the establishment engaged in executing the same shall be paid by the Local Government and credited to the Municipal Fund.

Compensation to the Tollygunge, and South Sub-urban Municipalities

89. (1) The Corporation shall pay from the Municipal Fund to the Commissioners of the Tollygunge Municipality two thousand six hundred and thirty-two rupees to compensate them for the expenditure incurred by them on local drainage within the area of the Ballygunge Pumping station and the High Level Outfall Sewer added to Calcutta.

of 1923.]

(Part III—Chapter VI—The Municipal Fund.—
Sections 90—92.)

(2) From the commencement of this Act, the Corporation shall pay annually from the Municipal Fund for ten years to the Commissioners of the South Suburban Municipality the sum of eight thousand rupees, being approximately, at the commencement of this Act, one-half of the difference between the gross revenue obtained as rates and taxes from, and the amount expended on, that portion of the area known as the New Dock Extension Area which was formerly comprised within the said municipality and which forms part of the area added to Calcutta.

90. The Corporation shall, beginning from the third year after the commencement of this Act, spend annually for ten years a sum of not less than one lakh of rupees on the execution of original improvement works within the area which formed the Mauiktala Municipality before the commencement of this Act, a sum of not less than a lakh of rupees on the execution of original improvement works within the area which formed the Cossipur-Chitpur Municipality at the commencement of this Act and a sum of not less than a lakh of rupees on the execution of original improvement works within the area which formed the Garden Reach Municipality at the commencement of this Act

Special pay-
ments on im-
provements of the
area which
formed the
Mauiktala, Cossi-
pur Chitpur and
Garden Reach
Municipalities

91. The Corporation shall spend annually a sum of not less than a lakh of rupees for the purpose of promoting primary education among boys between the ages of six and twelve years and girls between the ages of six and ten years residing in Calcutta.

Expenditure on
primary educa-
tion

92. (1) Surplus moneys at the credit of the Municipal Fund, which cannot immediately or at an early date be applied to the purposes of this Act, may from time to time be deposited at interest or placed in current account in the Imperial Bank of India, or in any other bank or banks in Calcutta which may be approved by the Local Government, or invested in any of the securities or debentures mentioned in section 112, sub-section (1).

Investment of
surplus money

Provided that, where any money is placed in current account under this sub-section with any bank or banks other than the Imperial Bank of India, no cheques shall be drawn by the Corporation against such current account, except in favour of the Imperial Bank of India.

(2) The loss, if any, arising from any such deposit or investment shall be debited to the Municipal Fund

(Part III.—Chapter VII.—Budget Estimate.—
Sections 93, 94.)

CHAPTER VII.

BUDGET ESTIMATE.¹

Executive Officer
to lay before Cor-
poration annual
estimates of ex-
penditure, receipts
and balances
and statement of
proposed taxes.

93. The Executive Officer shall, on or before each tenth day of February, cause to be prepared and lay before the Corporation, in such form as the Corporation may from time to time approve,—

- (a) an estimate of the expenditure which should, in his opinion, be incurred by the Corporation in the next ensuing year,
- (b) an estimate of receipts from all sources during the said year,
- (c) an estimate of all balances, if any, which will be available for reappropriation or expenditure at the commencement of the said year, and
- (d) a statement of proposals as to the taxation which it will, in his opinion, be necessary or expedient to impose under this Act in the said year.

Corporation to
frame Budget
Estimate.

94. (1) The Corporation shall consider the estimates and proposals submitted by the Executive Officer under section 93 and shall thereafter—

- (a) on or before the twenty-second day of March in each year frame and adopt a Budget Estimate of income and expenditure for the ensuing year, and
- (b) determine, subject to the provisions of Part IV, the levy of the consolidated rate and taxes for the said year at such rates as are necessary to provide for the purposes mentioned in sub-section (2):

Provided that, except under section 18 or section 96, the rates so determined shall not be subsequently altered for the year for which they have been determined.

(2) In such Budget Estimate, the Corporation shall, among other things,—

- (a) make adequate and suitable provision for such services as may be required for the fulfilment of the several duties imposed by this Act,

¹For special provisions in regard to the Budget Estimate for 1924-25, see the Calcutta Municipal (No. II) Act, 1923 (Ben. Act XI of 1923).

of 1923.]

*(Part III—Chapter VII—Budget Estimate.—
Sections 95, 96)*

- (b) provide for the payment, as they fall due, of all instalments of principal and interest for which the Corporation may be liable in respect of loans contracted by them, and
- (c) allow for a cash balance at the end of the said year of not less than six lakhs of rupees

95. (1) The Corporation may from time to time during the year— Power to Corporation to alter budget grants

- (a) increase the amount of any budget-grant,
- (b) make an additional budget-grant to meet any special or unforeseen requirement arising during the same year,
- (c) transfer the amount or a portion of the amount of any budget-grant to the amount of any other budget-grant, or
- (d) reduce the amount of any budget-grant:

Provided as follows—

- (i) due regard shall be had to all the requirements of this Act, and
- (ii) in making any increase or additional budget-grant, the estimated cash balance at the close of the year shall not be reduced below six lakhs of rupees.

(2) Every increase to a budget-grant and every additional budget-grant made in any year under sub-section (1) shall be deemed to be included in the Budget Estimate finally adopted for that year

96. (1) If at any time during the year it appears to the Corporation that, notwithstanding any reduction of budget-grants that has been made under section 95, the income of the Municipal Fund during the same year will not suffice to meet the expenditure sanctioned in the Budget Estimate of that year, and to leave at the close of the year a cash balance of not less than six lakhs of rupees, then it shall be incumbent on the Corporation forthwith to sanction any measure which they may consider necessary for proportioning the year's income to the expenditure. Power to Corporation to re-adjust income and expenditure during the year

(2) For the purposes of sub-section (1), the Corporation may either diminish the sanctioned expenditure of the year, so far as it may be possible so to do with

*(Part III.—Chapter VII.—Budget Estimate.—
Chapter VIII.—Loans.—Section 97.)*

due regard to all the requirements of this Act, or have recourse to supplementary taxation or to an increase of the rates, or adopt all or any of those methods:

Provided that the rates shall not be raised under this section beyond the maximum percentage prescribed under section 124, and that the supplementary taxation shall not be imposed unless two-thirds of the members of the Corporation present at a meeting have voted in favour of it.

CHAPTER VIII.

LOANS.

Power to Corporation to borrow money.

97. (1) The Corporation may, in pursuance of a resolution passed at a meeting, from time to time raise a loan, by the issue of debentures or otherwise on the security of the consolidated rate, or of all or any of the taxes, fees and dues authorized by this Act (or of both the said rate and all or any of the said taxes, fees and dues), of any sums of money which may be required—

- (a) for the construction of works under this Act, or
- (b) for the acquisition of land for the purposes of this Act, or
- (c) to pay off any debt due to the Government, or
- (d) to repay a loan raised under this Act:

Provided as follows:—

- (i) no loan shall be raised without the previous sanction of the Local Government;
- (ii) the rate of interest to be paid for any loan, and the terms (as to the time and method of repayment, and otherwise) upon which any loan is to be raised, shall be subject to the approval of the Local Government;
- (iii) the period within which a loan is to be repaid shall in no case exceed sixty years; and
- (iv) no loan exceeding in amount twenty-five lakhs of rupees shall be raised unless the terms, including the date of floatation, of such loan have been approved by the Government of India.

of 1923.]

(Part III—Chapter VIII.—Loans—Sections
98—101)

(2) When any sum of money has been borrowed under sub-section (1),—

- (i) no portion thereof shall, without the previous sanction of the Local Government, be applied to any purpose other than that for which it was borrowed, and
- (ii) no portion of any sum of money borrowed under clause (a) of sub-section (1) shall be applied to the payment of salaries or allowances to any municipal officers or servants, other than those who are exclusively employed upon the works for the construction of which the money was borrowed

98. The Corporation shall, at a meeting to be held on or before the twenty-second day of March in each year, after considering the Executive Officer's proposals in this behalf, determine, subject to the provisions of this Act, what sums of money (if any) shall be borrowed under section 97 in the next ensuing year

Determination
of sums to be
borrowed

99. Notwithstanding anything contained in section 97, whenever the borrowing of any sum has been sanctioned under that section, the Corporation may, instead of borrowing such sum or any part thereof from the public or any member thereof, take credit on such terms as may be sanctioned by the Local Government, from any bank on a cash account to be kept in the name of "the Municipal Corporation of the City of Calcutta" to the extent of such sum or part and, with the sanction of the Local Government, may grant mortgages of all or any of the property vested in the Corporation by way of securing the repayment of the amount of such credit or of the sums advanced from time to time on such cash account with interest

Power of
Corporation to
open credit
account with a
bank

100. Notwithstanding anything heretofore contained, the borrowing powers of the Corporation shall be limited so that the sums payable under this Act during any year for interest and for the maintenance of Sinking Funds (including the payments prescribed by sub-clause (c) of clause (1) of section 108), shall not exceed ten *per cent* on the annual rateable value of land and buildings as determined under Chapter X

Limit to bor-
rowing powers.

101. (1) All debentures issued under this Act shall be in such form, and signed by such person, as the Corporation may from time to time prescribe, with the previous sanction of the Local Government, or (in the case of a loan raised out of India) the Government of India.

Form, ex-
change, transfer
and effect of
debentures

*(Part III.—Chapter VIII.—Loans.—Sections
102—105.)*

(2) The holder of any debenture in any form prescribed under sub-section (1) may obtain in exchange therefor, upon such terms as the Corporation may from time to time determine, a debenture in any other form so prescribed.

(3) The holder of any debenture issued by the Corporation under the authority of any prior enactment may obtain in exchange therefor, upon such terms as the Corporation may from time to time determine, a debenture in a form prescribed under sub-section (1).

(4) Every debenture issued by the Corporation under this Act shall be transferable in such manner as shall be therein expressed.

(5) The right to sue in respect of the moneys secured by any such debentures, or by any debentures issued by the Corporation under the authority of any prior enactment, shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

Signature of
coupons attached
to debentures.

102. All coupons attached to debentures issued under this Act shall bear the signature of the Executive Officer; and such signature may be engraved, lithographed or impressed by any mechanical process.

Payment to
survivors of joint
payees.

103. When any debenture or security issued under this Act is payable to two or more persons jointly, and either or any of them dies, then, notwithstanding anything in section 45 of the Indian Contract Act, 1872¹, the debenture or security shall be payable to the survivor or survivors of such persons: ¹²

Provided that nothing in this section shall affect any claim by the representative of a deceased person against such survivor or survivors.

Receipt by joint
holder for interest
or dividend.

104. Where two or more persons are joint holders of any debenture or security issued under this Act, any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Corporation by any other of such persons.

Repayment of
loans.

105. Every loan raised by the Corporation under section 97 shall be repaid within the time approved under proviso (ii) to sub-section (1) of that section,

of 1923.]

(Part III—Chapter VIII—Loans—Sections
106—108)

and by such of the following methods as may be so approved, namely—

- (a) from a Sinking Fund established under section 106 in respect of the loan, or
- (b) partly from the Sinking Fund established under section 106 in respect of the loan, and (to the extent to which that Sinking Fund falls short of the sum required for the repayment of the loan) partly from money borrowed for the purpose under clause (d) of sub-section (1) of section 97

106. (1) Whenever the repayment from a Sinking Fund of a loan referred to in section 105, has been approved under proviso (ii) to sub-section (1) of section 97, the Corporation shall establish such a fund and shall pay into it every six months until the loan is repaid, a sum so calculated that, if regularly paid, it would, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the loan at the time approved

Establishment and maintenance of Sinking Funds for such loans

(2) The rate of interest, on the basis of which the sum referred to in sub-section (1) shall be calculated, shall be such as may be prescribed by the Government of India

(3) A separate Sinking Fund shall be established in respect of each loan referred to in section 105

107. Notwithstanding anything contained in section 106, if at any time the sum standing at credit of the Sinking Fund established for the repayment of any loan is of such amount that, if allowed to accumulate at the rate of interest prescribed under sub-section (2) of that section, it will be sufficient to repay the loan at the time approved under proviso (ii) to sub-section (1) of section 97, then, with the permission of the Local Government, further payments into such fund may be discontinued

Power to discontinue payments into Sinking Fund

108. In respect of all loans raised by the Corporation between the first day of April, 1881, and the commencement¹ of the Calcutta Municipal (Loans) Act, 1914, the following provisions shall have effect, namely—

Provisions regarding loans raised between the 1st April, 1881, and the commencement of the Calcutta Municipal (Loans) Act, 1914

- (1) The Corporation shall maintain a Sinking Fund in respect of all such loans, and shall pay into such Fund the following sums—

- (a) on the first day of January and the first day of July in each year, in respect of

¹ The 11th March, 1914.

(Part III.—Chapter VIII.—Loans.—Section
108.)

such of the said loans as were repaid before the thirty-first day of March, 1914, a sum representing four *per cent. per annum* on the amount of each of such loans, such payments to be continued, in the case of each of such loans, until the expiry of a period of forty-seven years from the date on which the loan was raised, and

(b) on the first day of January and the first day of July in each year, in respect of such of the said loans as have not been repaid before the thirty-first day of March, 1914, a sum representing one *per cent. per annum* on the amount of each of such loans, until the loan is repaid, and

(c) on the first day of January and the first day of July in each year, for a period of ten years, with effect from the first day of July, 1914, the sum of sixty-six thousand rupees.

(2) When any of the said loans hereafter falls due for repayment, it shall be repaid—

(i) from the sums which have accumulated in the Sinking Fund maintained under clause (1) and in Sinking Fund A maintained before the commencement¹ of the Calcutta Municipal (Loans) Act, 1914, to the extent to which six monthly payments of one *per cent. per annum* on the amount of any such loan would have accumulated at three *per cent.* compound interest from the date of its commencement, and

(ii) to the extent to which the sums referred to in sub-clause (i) of this clause fall short of the sum required for repayment of the loan—from money to be borrowed by the Corporation for the purpose, for any period not exceeding the period by which the term of the original loan falls short of forty-seven years.

Ben. Ac
of 1914.

¹ The 11th March, 1914.

of 1923.]

(Part III—Chapter VIII—Loans—Sections
109, 110)

- (3) A separate Sinking Fund shall be established in respect of each amount borrowed under sub-clause (ii) of clause (2) of this section, and the provisions of sections 106 and 107 shall apply to each such Sinking Fund

109. All securities and cash jointly or severally held, before the commencement¹ of the Calcutta Municipal (Loans) Act, 1914, by the Secretary to the Government of Bengal in the Financial Department and the Accountant-General, Bengal, as Trustees for and in respect of Sinking Fund A referred to in sub-clause (i) of clause (2) of section 108 and transferred by them to the Corporation in pursuance of the provisions of that Act, shall be held by the Corporation as part of the Sinking Fund established under section 108 and all other securities and cash held in any other Sinking Fund established by the Corporation under the said Calcutta Municipal (Loans) Act 1914, shall vest in the Corporation for the purpose of repayment of the loan in respect of which such Sinking Fund was established and such Sinking Fund shall be deemed to have been established under section 106

Method of disposal of securities transferred to Corporation under Ben Act IV of 1914

110. (1) Notwithstanding anything contained in this Act, the Corporation may consolidate all or any of their loans, and for that purpose may invite tenders for a new loan (to be called 'the Calcutta Municipal Consolidated Loan, 19 ') and invite holders of municipal debentures to exchange their debentures for scrip of such loan

Power to Corporation to consolidate loans

(2) The terms of every such consolidated loan, and the rates at which exchange into such consolidated loan shall be permitted, shall be subject to the previous approval of the Government of India

(3) The period for the extinction of any such consolidated loan shall not, without the sanction of the Government of India, extend beyond the farthest date within which any of the loans to be consolidated would otherwise be repayable

(4) The Corporation shall provide for the repayment of every such consolidated loan by establishing a Sinking Fund therefor

(5) The provisions of sections 106 and 107 shall apply to each Sinking Fund established under sub-section (4)

Provided that, in calculating the sum to be paid into any such Sinking Fund in pursuance of

*(Part III.—Chapter VIII.—Loans.—Sections
111—113.)*

section 106, any sums transferred to that fund in pursuance of proviso (i) or proviso (ii) to section 114 shall be taken into account.

Time for repayment of money borrowed to extinguish previous loan.

111. The time for the repayment of any money borrowed under this Act for the purpose of extinguishing any previous loan shall not, except with the express sanction of the Government of India, extend beyond the unexpired portion of the period for which such previous loan was sanctioned.

Investment of Sinking Funds.

112. (1) All moneys paid into a Sinking Fund shall as soon as possible be invested by the Corporation in—

- (a) Government securities, or
- (b) securities guaranteed by the Government, or
- (c) Calcutta Municipal debentures, or
- (d) debentures issued by the Commissioners for the Port of Calcutta, or
- (e) debentures issued by the Trustees for the Improvement of Calcutta,

and shall be held by the Corporation for the purpose of repaying from time to time the debentures issued by it.

(2) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt, be paid into the appropriate Sinking Fund and invested in the manner prescribed by subsection (1).

(3) Moneys standing at credit of two or more Sinking Funds may, at the discretion of the Corporation, be invested together as a common fund, and it shall not be necessary for the Corporation to allocate the securities held in such investments among the several Sinking Funds.

(4) Any investment made under this section may from time to time, subject to the provisions of subsection (1), be varied or transposed.

Power to Corporation to reserve a portion of loan-debentures for investment of Sinking Funds.

113. (1) For the purpose of investing any portion of the Municipal Fund (including Sinking Funds) the Corporation may, with the previous sanction of the Local Government, reserve and set apart for issue at par to and in the name of the Corporation of Calcutta any portion of the debentures to be issued on account of any loan, provided that the intention so to reserve and set apart such debentures shall have been notified as a condition of the issue of the loan.

of 1923.]

*(Part III.—Chapter VIII—Loans — Sections
114, 115)*

(2) The issue of any such debentures to the Corporation, as aforesaid, shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to and in the name of any other person

(3) The purchase by, or the transfer, assignment or endorsement to, the Corporation, of any debenture issued by the Corporation shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to any other person

114. Until any loan is wholly repaid, the Corporation shall not apply the Sinking Fund established in respect of that loan to any purpose other than the repayment of that loan

*Application of
Sinking Funds*

Provided that—

(i) when any loan, or part thereof, which is raised after the commencement of this Act, is consolidated under section 110, the Corporation shall transfer to the Sinking Fund established for such consolidated loan the sum standing at credit of the Sinking Fund of the original loan, or if part only of a loan is consolidated, then such part of the sum standing at credit of the Sinking Fund of the original loan as is proportionate to the amount of the original loan which is incorporated in the consolidated loan; and

(ii) when any loan, or part thereof, which was raised before the commencement¹ of the Calcutta Municipal (Loans) Act, 1914, has been consolidated, the Corporation shall transfer such amounts as the Government of India may direct from the Sinking Fund maintained under clause (1) of section 108, and from Sinking Fund A maintained before the commencement of the said Act to the Sinking Fund established for consolidated loans under section 110, sub-section (1).

115. (1) The Executive Officer shall, at the end of each year, prepare a statement showing—

*Annual state-
ment by Execu-
tive Officer*

(a) the amount which has been invested during the year under section 112,

¹ The 11th March, 1914

(Part III.—Chapter VIII.—Loans.—Sections 116, 117.)

- (b) the date of the last investment made previous to the submission of the statement.
- (c) the aggregate amount of the securities then in the hands of the Corporation, and
- (d) the aggregate amount which has, up to the date of the statement, been applied under section 114, in or towards repaying loans.

(2) Every such statement shall be laid before a meeting of the Corporation and published in the *Calcutta Gazette*.

116. All payments due from the Corporation for interest on and repayment of loans shall be made in priority to all other payments due from the Corporation.

117. (1) All Sinking Funds established under this Act shall be subject to annual examination by the Accountant-General, Bengal, who shall ascertain whether the cash and the value of the securities belonging thereto are actually equal to the amount which should be at the credit of such funds had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

(2) The amount which should be at the credit of a Sinking Fund shall be calculated on the basis of the present value of all future payments required to be made to such fund under the provisions of this Act, on the assumption that all investments are regularly made and the rate of interest as originally estimated is obtained therefrom.

The value of securities belonging to a Sinking Fund shall be their current value unless they fall due for redemption at par or above before maturity of the Fund in which case their current value shall be taken as their redemption value, except in the case of Calcutta Municipal Debentures which shall always be valued at par, provided that the Corporation shall make good immediately any loss which may accrue on the actual sale of such debentures at the time of the repayment of the loan.

(3) The Corporation shall forthwith pay into any Sinking Fund any amount which the Accountant-General may certify to be deficient, unless the Local Government specially sanction a gradual readjustment.

(4) If the cash and the value of the securities at credit of any Sinking Fund are in excess of the

Priority of payments for interest and repayment of loans over other payments.

Annual examination of Sinking Funds.

of 1923.]

*(Part III—Chapter VIII—Loans—Chapter IX—
Accounts—Sections 118—120)*

amount which should be at its credit, the Accountant-General shall certify the amount of such excess sum, and the Corporation may thereupon transfer the excess sum to the Municipal Fund

(5) If any dispute arises as to the accuracy of any certificate made by the Accountant-General under sub-section (3) or sub-section (4), the Corporation may, after making the payment or transfer therein mentioned, refer the matter to the Local Government, whose decision shall be final

118. (1) If any money borrowed by the Corporation from the Government, whether before or after the commencement of this Act, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the Local Government may attach the Municipal Fund or any portion thereof

Attachment of
Municipal Fund
for recovery of
money borrowed
from the Govern-
ment

(2) After such attachment, no person except an officer appointed in this behalf by the Local Government shall in any way deal with the attached fund or portion thereof, but such officer may do all acts in respect thereof which the Corporation or any Municipal Officer or servant might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the arrear and of all interests and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings

Provided that no such attachment shall defeat or prejudice any debt for which the fund attached was previously pledged in accordance with law, but all such prior charges shall be paid out of the proceeds of the fund before any part of the proceeds is applied to the satisfaction of the debt due to the Government

119. If the Corporation fail to make any payment as required by section 117, sub-section (3), the Local Government may attach the Municipal Fund or any portion thereof, and the provisions of section 118, sub-section (2), shall, with all necessary modifications, be deemed to apply.

Attachment of
Municipal Fund
for securing pay-
ment into Sink-
ing Fund

CHAPTER IX

ACCOUNTS

120. Accounts of receipts and expenditure of the Corporation shall be kept in such manner and in such forms as they may from time to time prescribe.

Accounts to be
kept

(Part IV.—Chapter X.—The consolidated rate.—
Section 127.)

(3) The Corporation may exempt the owner of any hut from payment of the whole or any portion of the consolidated rate payable in respect of such hut, and in any such case they may exempt the owner of the land on which the hut is built, or not, as they think fit.

(4) The Corporation may, by resolution, exempt from the consolidated rate all lands and buildings the annual valuation of which, as determined under this chapter, does not exceed twenty rupees or such smaller sum as may be specified in such resolution :

Provided that no person shall be entitled to claim the benefit of such exemption if he owns or occupies more than one piece of land or more than one building and the aggregate annual valuation of all the lands or buildings owned or occupied by him exceeds twenty rupees or the said smaller sum.

Assessment of lands and buildings to the consolidated rate.

127. For the purpose of assessing land and buildings to the consolidated rate,—

Annual value of land or building, how to be ascertained.

- (a) the annual value of land, and the annual value of any building erected for letting purposes or ordinarily let, shall be deemed to be the gross annual rent at which the land or building might at the time of assessment reasonably be expected to let from year to year, less, in the case of a building, an allowance of ten *per cent.* for the cost of repairs and for all other expenses necessary to maintain the building in a state to command such gross rent ; and
- (b) the annual value of any building not erected for letting purposes and not ordinarily let shall be deemed to be five *per cent.* on the sum obtained by adding the estimated present cost of erecting the building, less a reasonable amount to be deducted on account of depreciation (if any), to the estimated present value of the land valued with the building as part of the same premises :

of 1923.]

(Part IV.—Chapter X—The consolidated rate —
Section 128)

Provided as follows —

- i) the annual value of a *bustee* shall be deemed to be the gross annual rent at which the land contained within it, excluding the lands which have been left vacant for the purposes of any *bustee* street prescribed in or under a standard plan approved by the Corporation under Chapter XXII, might reasonably be expected to let from year to year, *plus* the gross annual rent at which the huts erected thereon might reasonably be expected to let from year to year, after deducting therefrom the rent of the land and an allowance of ten *per cent* for the cost of repairs and for all expenses necessary to maintain such huts in a state to command such gross rent,
- (ii) in calculating the value of any land or building under this section the value of any machinery on such land or in such building shall be excluded, but all fixtures including lifts and electric and other fittings which add to the convenience of the building shall be valued, subject in the case of a lift to such deduction from the valuation, as the Executive Officer may think proper, on account of the cost of repairs to, maintenance of, and attendance on, such lift.
- (iii) if in the case of a building valued under clause (b), the annual value of which does not exceed five hundred rupees, any exceptional circumstances exist which render a valuation of five *per cent* on the cost of erecting the building less depreciation, excessive, a lower percentage may be taken,
- (iv) when any building has been valued at a special percentage taken under proviso (iii), it may be re-valued at any time after the exceptional circumstances referred to in that proviso have ceased to exist.

128. For the purpose of assessing land and buildings belonging to the Board of Trustees for the Improvement of Calcutta to the consolidated rate, the annual value of such land or building acquired by purchase or otherwise by the Board for the execution of an improvement scheme for the purposes

Annual value
of land or building
belonging to
the Calcutta
Improvement
Trust

(Part IV.—Chapter X.—The consolidated rate.—
Sections 129, 130.)

of the Calcutta Improvement Act, 1911¹, which has been framed after the commencement of this Act, shall be deemed to be five *per cent.* on the cost of acquisition thereof, subject, on application made in this behalf by the Board, to revision by the Local Government; and such annual value shall be fixed from the date of the acquisition in each succeeding quarter on the basis of such cost, and shall, notwithstanding anything contained in section 131, remain in force until the streets (if any) laid out or altered and the open spaces (if any) provided in executing the scheme have vested in the Corporation under section 65 of the said Act.

Explanation.—For the purposes of this section the cost of acquisition means—

- (a) in the case of land and buildings acquired under the Land Acquisition Act, 1894², as amended by the Calcutta Improvement Act, 1911¹, the value of the land and buildings as determined by the Land Acquisition Collector or by the Tribunal under the Calcutta Improvement Act, 1911, or by any other higher appellate authority ;
- (b) in the case of land and buildings acquired by private treaty, the purchase price of such land or buildings ;
- (c) in the case of land and buildings taken for an improvement scheme under section 54 or section 55 of the Calcutta Improvement Act, 1911, such amount as may be determined under either of those sections ; and
- (d) in any other case, including the erection of any new structures subsequent to the acquisition, such valuation as may be determined by the Executive Officer.

No remission for vacancy in the case of land or building belonging to the Board.

129. Notwithstanding anything contained in sections 151 to 156, and subject to the provisions of section 128, when any land or building belonging to the Board is valued under section 128, no remission or refund of the consolidated rate assessed in respect of such land or building shall be allowed on the ground that it is unoccupied, but both the owner's and the occupier's share of the consolidated rate shall be payable in full as long as such land or building belongs to the Board and is assessed under section 128.

Revaluation of land or building vested in the Board after execution of an improvement scheme.

130. When the Board has executed any scheme referred to in section 128, and the streets (if any) laid out or altered and the open spaces (if any) provided in executing such scheme have vested in the Corporation under section 65 of the Calcutta Improvement Act, 1911, the valuation made under section 128 shall terminate, and any land or building acquired by purchase or otherwise by the Board for the execution of such scheme and remaining vested in

¹ Bengal Code, Vol. III.

² General Acts, Vol. IV.

of 1923.]

(Part IV — Chapter X — The consolidated rate —
Section 131)

the Board at the termination of such valuation shall be revalued under section 127, and such revaluation shall remain in force for such period as remains unexpired in the ward in which it is included.

131. (1) The valuation of any land or building situated in the several wards, the respective numbers, names and boundaries of which are specified in Schedule VII, which has been made before the commencement of this Act, whether under the Bengal Municipal Act, 1884¹, or under the Calcutta Municipal Act, 1899, and which is in force at the commencement of this Act, shall remain in force and shall be deemed to be the valuation for the assessment of the consolidated rate on such land or building under this Act, until such time as the Executive Officer may make a fresh valuation of the lands and buildings in each such ward under this Act, and the annual value of such lands and buildings in each such ward shall, after such assessment has been made by the Executive Officer, have effect for a period of six years and may be revised thereafter by the Executive Officer at the termination of successive periods of six years

Assessment of
annual value, and
duration of assess-
ment.

(2) in sub-
section shall apply
in the namely,—

(a) *bustees* with the huts upon them may be valued annually at the discretion of the Executive Officer, and shall be so valued on the application of the owner, and when such *bustees* are not re-valued, the former valuation shall remain in force from year to year until a re-valuation is made,

Bustees

(b) any land or building the valuation of which has been cancelled on the ground of irregularity, or which for any other reason has no annual value assigned to it under this Act, may be valued by the Executive Officer at any time during the currency of the period prescribed in respect of such land or building by sub-section (1), and such valuation shall remain in force, and the consolidated rate shall be levied according to it, for the unexpired portion of such period,

Unvalued lands
and buildings

(c) if, during the currency of any period prescribed by sub-section (1), any substantial alteration and improvement is made in any

Alterations and
improvements

*Part IV.—Chapter X.—The consolidated rate.—
Section 131.)*

building the Executive Officer may cause such building to be re-valued; and such re-valuation shall remain in force, and the consolidated rate shall be levied according to it, until the expiration of the said period;

New buildings.

(d) if, during the currency of any period prescribed by sub-section (1), any new building is erected, the Executive Officer may cause such building to be valued; and such valuation shall remain in force, and the consolidated rate shall be levied according to it, until the expiration of the said period;

Depreciation.

(e) if, during the currency of any period prescribed by sub-section (1), the value of any building is reduced by reason of any substantial demolition or suffers depreciation from any cause proved to the satisfaction of the Executive Officer to have been beyond the control of the owner or occupier thereof, the Executive Officer shall, as soon as practicable, on application being made to him in writing by the owner or occupier of such building, cause it to be re-valued; and such re-valuation shall remain in force from the beginning of the quarter next following the date of the application, and the consolidated rate shall be levied according to it, until the expiration of the said period;

Alterations and
improvements
after re-valuation.

(f) if any building has been re-valued under clause (e) and any substantial alteration and improvement is made in the building during the currency of the period prescribed by that clause for the continuance of such re-valuation, the Executive Officer may cause a new valuation of such building to be made; and such new valuation shall remain in force, and the consolidated rate shall be levied according to it, until the expiration of the said period;

Acquisition by
the Calcutta
Improvement
Trust.

(g) if, during the currency of any period mentioned in sub-section (1), the ownership of any portion of any building or land be acquired by purchase or otherwise by the Board of Trustees for the Improvement of Calcutta, the Executive Officer shall, on the application of the Board, divide the

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Section 131)

assessment of such building or land in the following manner, namely—

- (a) the Executive Officer shall determine what proportion of the assessment of such building or land shall remain assessed upon the residue of the building or land not so acquired, and such proportion shall from the date of acquisition until the expiration of the aforementioned period be deemed to be the assessment of such residue of the building or land
- (b) the valuation of the portion of the building or land acquired by the Board shall be fixed in the manner hereinbefore prescribed in section 128, and until such valuation comes into force the Board shall be held liable for the consolidated rate due for such portion and the amount due shall be deemed to be the amount of rates paid on the whole building or land prior to acquisition, less the amount for which the residual owner is made liable under sub clause (a) of this clause,
- (h) if, during the currency of any valuation mentioned in section 128 or section 130, any building or land or portion thereof, vested in the Board be sold or otherwise transferred by the Board, except under section 65 of the Calcutta Improvement Act, 1911¹, the Executive Officer may cause the same to be re-valued under section 127, and such re-valuation shall be in force, and the consolidated rate shall be levied according to it, with effect from the quarter following the date of sale or transfer, until the expiration of the period mentioned in sub section (1),
- (i) if any re-valuation be made under clause (h), the Board shall be entitled to a reduction in the total assessment fixed upon the buildings and lands acquired by it for the execution of an improvement scheme for the purposes of the Calcutta Improvement Act,

Transfer by the
Calcutta Improve-
ment Trust

Acquisition by
the Calcutta Im-
provement Trust
for the execution
of an improvement
scheme

(Part IV.—Chapter X.—The consolidated rate.—
Sections 132, 133.)

1911¹, to the extent of one-half of the annual valuation of the land or building, or portion thereof, thus transferred by the Board, from the quarter from which such re-valuation is fixed under section 127.

Separate valuation of land and huts in case of a *bustee*.

132. For the purpose of levying the consolidated rate in the case of a *bustee*, the Executive Officer shall cause the land contained within the *bustee* and the huts standing on it to be valued separately.

Assessment in case of land or building subdivided into separate shares.

133. If, during the currency of any period prescribed by sub-section (1) of section 131, the ownership of any land or building, or portion thereof, is subdivided into separate shares, the Executive Officer, may on the application of any of the co-owners, divide the assessment of such land, building or portion in the following manner, namely.—

(i) if the ownership be subdivided into two or more shares without separate allotments, or if as the result of such subdivision there is a separate allotment of such land, building or portion into two or more separate portions, which are not entirely independent and capable of separate enjoyment, the Executive Officer may, if he thinks fit, apportion the assessment among the share-holders according to the value of their respective shares without assigning any separate number;

(ii) if, as the result of such subdivision, there are separate allotments of such land, building or portion and if such allotments are made entirely independent and capable of separate enjoyment but not in conformity with the provisions of this Act, or of any rules or by-laws made thereunder, relating to buildings, the Executive Officer may, if he thinks fit, assess such portions separately after assigning to them separate numbers under this chapter:

Provided that by such separate assessment the total assessment for the entire premises shall not be increased;

(iii) if such separated portions of such land, building or portion are, or are made, entirely independent and capable of separate enjoyment in conformity with

of 1923.]

(Part IV—Chapter X—The consolidated rate —
Sections 134—136)

the provisions of this Act, or of any rules or by-laws made thereunder, relating to buildings, the Executive Officer shall assess each portion separately by assigning a separate number thereto

Provided that by such separate assessment the total assessment for the entire premises shall not be increased

Provided also that such apportionment or separation of the numbers and assessment, as the case may be, shall remain in force and the consolidated rate shall be levied accordingly until the expiration of the said period

134. If any land or building, bearing two or more municipal numbers, or portions thereof, be amalgamated into one or more new premises, the Executive Officer shall assess them, on amalgamation, after assigning to them one or more numbers, as the case may be, for the purposes of this chapter

Assessment in case of amalgamation of premises.

Provided that no assessment on amalgamation of premises shall be made by the Executive Officer unless there is a cause for the re-valuation of any of such premises except on an application being made to him by the owner or owners thereof, in which case such assessment, if made, shall remain in force for the unexpired period of the valuation of the ward in which the said premises are included

Provided also that the total assessment on amalgamation shall not be greater than the sum of the previous assessments of the several premises amalgamated.

135. The Executive Officer may, in his discretion assess any outhouse appurtenant to a building, or any portion of a building, separately from such building or the other portions of such building, as the case may be, and, when any outhouse or portion of a building is so separately assessed, the same shall, for the purposes of this chapter, be deemed to be a separate building.

Power to Executive Officer separately to assess outhouses and portions of buildings

136. (1) The Executive Officer may, by written notice, require the owner or occupier of any land or building to furnish him, within a fortnight after the service of the notice, with returns of the measurements and of the rent or annual value of the land or building.

Returns and inspection for purpose of valuation.

(Part IV.—Chapter X.—The consolidated rate.—
Sections 137—139.)

(2) Every owner and occupier on whom any such requisition is made shall be bound to comply with the same and to make a true return to the best of his knowledge or belief.

(3) The Executive Officer, or any person authorized by him in this behalf, may inspect, survey and measure such land or building.

Public notice
of inspection of
valuations.

137. (1) When the valuation, under section 131 of the lands and buildings in any ward has been completed, the Executive Officer shall cause the respective valuations to be entered in a list and give public notice of the place where such list may be inspected.

(2) Such notice shall be by advertisement in local newspapers, and also by placards posted up in conspicuous places throughout such ward.

(3) The Executive Officer shall also cause a placard to be posted up in each *bustee*, showing separately for each building situated in the *bustee* the valuation assigned to it in the valuation list.

(4) The person having custody of the valuation list shall permit any person to inspect it and to make extracts from it.

(5) No fee shall be charged for any such inspection; but there shall be payable, by all persons other than owners or occupiers of land in the ward and their agents, a fee of one rupee in respect of each entry extracted.

Notice when
valuation made
for the first time
increased.

138. The Executive Officer shall, in all cases in which any land, *bustee* or building is for the first time valued, or in which the valuation of any land, *bustee* or building previously valued is increased under section 131, give special notice thereof to the owner or occupier of the same; and when the valuation is so increased, the said notice shall contain a statement of the grounds of such increase.

Notice of objec-
tion to valuation.

139. (1) Any person who is dissatisfied with a valuation made under this chapter may deliver at the municipal office a written notice stating the grounds of his objection to such valuation.

(2) Such notice shall be delivered within fifteen days after the publication of the notice referred to in section 137, or after receipt of the notice referred to in section 138, if such notice is received after the publication of the notice referred to in section 137:

Provided that the Executive Officer may, if he thinks fit, extend the said period of fifteen days to a period not exceeding one month.

of 1923.]

(Part IV—Chapter X—The consolidated rate—
Sections 140—143)

140. (1) All such objections shall be entered in a register to be maintained for the purpose, and, on receipt of any objection, notice shall be given to the objector of a time and place at which his objection will be investigated

Entry of objection and investigation thereof by Executive Officer or Deputy Executive Officer

(2) At the said time and place the Executive Officer or a Deputy Executive Officer shall hear the objection, in the presence of the objector or his agent if he appears, or may for reasonable cause, adjourn the investigation

(3) When the objection has been determined, the order passed shall be recorded in the said register, together with the date of such order

141. (1) Any person dissatisfied with the order passed on his objection may appeal to the Court of Small Causes having jurisdiction in the place where the land or building, to the valuation of which the objection was made, is situated

Appeal to Small Cause Court

(2) Such appeal shall be presented to such Court of Small Causes within thirty days from the date of the order passed under section 140, and shall be accompanied by an extract from the register of objections containing the order objected to

(3) The provisions of Parts II and III of the Indian Limitation Act, 1908¹, relating to appeals, shall apply to every appeal preferred under this section

(4) No appeal shall be admitted under this section unless an objection has first been determined under section 140

142. (1) Every valuation made by the Executive Officer under section 131 shall, subject to the provisions of sections 139, 140 and 141, be final

Valuations, when to be final

(2) Every order passed by the Executive Officer or Deputy Executive Officer under section 140 shall, subject to the provisions of section 141 be final

(3) An appeal from a decision made by the Court of Small Causes under section 141 shall lie to the High Court

143. (1) The annual value fixed under this chapter shall be entered in one or more books to be kept for the purpose at the municipal office, wherein shall also be recorded—

Keeping of municipal assessment book

(a) the number of each premises,

(b) the description of each premises,

(c) the name and place of abode of the owner and the name of the occupier,

(d) the amount of the valuation,

(Part IV.—Chapter X.—The consolidated rate.—
Sections 137—139.)

(2) Every owner and occupier on whom any such requisition is made shall be bound to comply with the same and to make a true return to the best of his knowledge or belief.

(3) The Executive Officer, or any person authorized by him in this behalf, may inspect, survey and measure such land or building.

Public notice
and inspection of
valuations.

137. (1) When the valuation, under section 131 of the lands and buildings in any ward has been completed, the Executive Officer shall cause the respective valuations to be entered in a list and give public notice of the place where such list may be inspected.

(2) Such notice shall be by advertisement in local newspapers, and also by placards posted up in conspicuous places throughout such ward.

(3) The Executive Officer shall also cause a placard to be posted up in each *bustee*, showing separately for each building situated in the *bustee* the valuation assigned to it in the valuation list.

(4) The person having custody of the valuation list shall permit any person to inspect it and to make extracts from it.

(5) No fee shall be charged for any such inspection; but there shall be payable, by all persons other than owners or occupiers of land in the ward and their agents, a fee of one rupee in respect of each entry extracted.

Notice when
valuation made
for the first time
or increased.

138. The Executive Officer shall, in all cases in which any land, *bustee* or building is for the first time valued, or in which the valuation of any land, *bustee* or building previously valued is increased under section 131, give special notice thereof to the owner or occupier of the same; and when the valuation is so increased, the said notice shall contain a statement of the grounds of such increase.

Notice of objec-
tion to valuation.

139. (1) Any person who is dissatisfied with a valuation made under this chapter may deliver at the municipal office a written notice stating the grounds of his objection to such valuation.

(2) Such notice shall be delivered within fifteen days after the publication of the notice referred to in section 137, or after receipt of the notice referred to in section 138, if such notice is received after the publication of the notice referred to in section 137:

Provided that the Executive Officer may, if he thinks fit, extend the said period of fifteen days to a period not exceeding one month.

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(Part IV—Chapter X—The consolidated rate—
Sections 140—143)

140. (1) All such objections shall be entered in a register to be maintained for the purpose, and, on receipt of any objection, notice shall be given to the objector of a time and place at which his objection will be investigated

Entry of objection and investigation thereof by Executive Officer or Deputy Executive Officer

(2) At the said time and place the Executive Officer or a Deputy Executive Officer shall hear the objection, in the presence of the objector or his agent if he appears, or may for reasonable cause, adjourn the investigation

(3) When the objection has been determined, the order passed shall be recorded in the said register, together with the date of such order

141. (1) Any person dissatisfied with the order passed on his objection may appeal to the Court of Small Causes having jurisdiction in the place where the land or building, to the valuation of which the objection was made, is situated

Appeal to Small Cause Court

(2) Such appeal shall be presented to such Court of Small Causes within thirty days from the date of the order passed under section 140, and shall be accompanied by an extract from the register of objections containing the order objected to

(3) The provisions of Parts II and III of the Indian Limitation Act, 1908¹, relating to appeals, shall apply to every appeal preferred under this section

(4) No appeal shall be admitted under this section unless an objection has first been determined under section 140

142. (1) Every valuation made by the Executive Officer under section 131 shall, subject to the provisions of sections 139, 140 and 141, be final

Valuations, when to be final

(2) Every order passed by the Executive Officer or Deputy Executive Officer under section 140 shall, subject to the provisions of section 141 be final

(3) An appeal from a decision made by the Court of Small Causes under section 141 shall lie to the High Court

143. (1) The annual value fixed under this chapter shall be entered in one or more books to be kept for the purpose at the municipal office, wherein shall also be recorded—

Keeping of municipal assessment book

- (a) the number of each premises,
- (b) the description of each premises,
- (c) the name and place of abode of the owner and the name of the occupier;
- (d) the amount of the valuation;

(Part IV.—Chapter X.—The consolidated rate.—
Sections 144, 145.)

(e) the amount payable quarterly on account of the consolidated rate ;

(f) the fact of exemption (if any) from payment of the said rate ; and

(g) such other particulars (if any) as the Executive Officer may from time to time direct.

(2) The particulars mentioned in sub-section (1) may be contained in as many books as the Executive Officer may from time to time determine, which shall together constitute the municipal assessment-book.

(3) When the name of the owner or occupier of any premises is not known, it shall be sufficient to designate him in the said assessment-book as "the owner" or "the occupier", as the case may be.

Entry of names
of owners and
occupiers
in
assessment-book.

144. (1) Any owner or occupier may at any time apply to the Executive Officer to have his name entered as owner or occupier, as the case may be, in the assessment-book ; and the Executive Officer shall, after giving the parties interested an opportunity of being heard, unless there is sufficient reason to refuse such application, cause such name to be entered in the assessment-book :

Provided that if such application is refused, the reason for the refusal shall be recorded in writing.

(2) Where there are gradations of owners or occupiers, and doubt exists as to who is entitled to have his name entered in the assessment-book as owner or occupier of the premises, the Executive Officer shall, after giving the parties interested an opportunity of being heard, determine which of the several owners or occupiers is so entitled, and his decision shall remain in force for the purposes of this Act unless and until it is set aside by the order of a competent Court.

(3) No owner or occupier whose name is not entered in the assessment-book shall be entitled to object that any bill, notice of demand, warrant or other notice of any kind required by this Act to be served on the owner or occupier of any land or building, has not been made out in his own name.

Notice of trans-
fers of title, when
to be given.

145. Whenever the title in any land or building, or in any part or share of any land or building, is transferred, the transferee shall, within three months after the execution of the instrument of transfer, or, if no such instrument be executed, after the

of 1923.]

*(Part IV.—Chapter X—The consolidated rate —
Section 146)*

transfer is effected, give notice in writing of such transfer to the Executive Officer

Provided that in the event of the death of the person in whom such title vests, the person to whom, as heir or otherwise, the title of the deceased is transferred by descent or devise, shall, within one year from the death of the deceased, give notice in writing of such transfer to the Executive Officer

146. (1) Notwithstanding anything contained in section 142, the Executive Officer may at any time amend the assessment book—

Power to Executive Officer to amend assessment book

- (a) by inserting therein the name of any person whose name ought, in his opinion, to be so inserted, or by inserting any land or building which is, in his opinion, liable to the consolidated rate, or by inserting a valuation when the land or building liable to be valued has not been valued, or
- (b) by striking out the name of any person, or by striking out any land or building which is in his opinion, not liable to the consolidated rate, or by reducing the amount of any valuation; or
- (c) by increasing the amount of the valuation of any premises where, in his opinion, such premises, at the time of the last general valuation, have been substantially undervalued by reason of misrepresentation or fraud

Provided that, whenever it is proposed to make any amendment under clause (a), notice shall be given to persons interested of a day, not being less than fifteen days from the service of the notice, on which it is intended to make the amendment

Provided also as follows —

- (i) no amendment shall be made under clause (c) except by the Executive Officer, and
- (ii) whenever it is proposed to make any such amendment, notice shall be given to the owner and occupier of the premises concerned of a day, not being less than fifteen days from the service of the notice, on which it is intended to make the amendment; and
- (iii) clause (c) shall not apply to any valuation of any premises determined on appeal to the Court of Small Causes or to the High Court as the case may be.

*(Part IV.—Chapter X.—The consolidated rate.—
Sections 147—149.)*

(2) If any amendment be made under clause (a) or clause (c) of sub-section (1), any person on whom a notice is to be served under the first or second proviso to sub-section (1), may object by written application to the Executive Officer, to be delivered at the municipal office three clear days before the day fixed in the said notice; and the provisions of sections 139 to 142 shall, with all necessary modifications, be deemed to apply to such objection.

Period for
which revised
valuations to con-
tinue in force.

147. When the valuation of any land or building is revised in consequence of an objection made under section 139 or section 146, sub-section (2), or an appeal is preferred under section 141, the revised valuation shall take effect from the quarter in which the first-mentioned valuation would have taken effect, and shall continue in force for the period for which the said first-mentioned valuation was made, and no longer.

Effect of entries
in assessment-
book.

148. (1) The assessment calculated on the valuation for the time being shown in the assessment-book shall be deemed to be the amount payable during the whole period for which the valuation is in force.

(2) When any amendment has been made in the assessment-book, such period shall, unless otherwise specially provided, be calculated—

- (a) from the commencement of the quarter next succeeding that in which the notice of objection was delivered under section 139 or section 146, sub-section (2); or,
- (b) if no such notice has been delivered, then from the commencement of the quarter next succeeding that in which such amendment was made:

Provided that the old valuation shall, notwithstanding that the period for which it was made may have expired, continue in force until the commencement of the quarter referred to in clause (a) or clause (b), as the case may be.

Payment and recovery of the consolidated rate.

Payment of
consolidated rate.

149. One-half of the consolidated rate shall be payable by the owners of the lands and buildings, and the other half by the occupiers thereof; and each such instalment shall be payable on or before the fifteenth day of April, the fifteenth day of July, the fifteenth day of October and the fifteenth day of January for the quarters respectively commencing on the first day of each of those months.

of 1923.]

(Part IV.—Chapter X—The consolidated rate.—
Sections 150—152.)

150. If the annual value of any land or building, as determined under this chapter, exceeds in any case the amount of the rent payable to the owner for the land or building,

Recovery by owner from tenant in certain cases of part of the owner's share of the consolidated rate

the owner may in such case, notwithstanding anything contained in any other law for the time being in force in Bengal, recover from the person who pays him rent the difference between the sum assessed as the owner's share of the consolidated rate in respect of such land or building and the sum at which such share would have been assessed had the land or building been valued only at the amount of rent actually payable to the owner,

and such difference shall be added to the rent and shall be recoverable as rent by the owner from the person liable for the payment of the rent

151. When any land or building which has been assessed to the consolidated rate has remained unoccupied and unproductive of rent for a period of sixty or more consecutive days and a written notice of the facts has been given to the Executive Officer, he shall—

Refund of owner's share of consolidated rate for period of vacancy

(a) remit one-half of the owner's share of the consolidated rate due on account of such period, or,

(b) if the whole of such share has been paid, refund, on application made therefor, one-half of such share.

Provided that, when any land not being *wakf* or *debutter* property, which in the opinion of the Corporation is suitable for a building site, is not adequately utilized for such a purpose for a period of more than three years, the right to a remission of the consolidated rate for a vacancy in this respect, although the land is not occupied and is not productive of rent, shall cease on the expiration of such period, unless the Corporation exempt such land from the operation of this proviso on the ground that it is necessary for the land to be left open for the purpose of ventilation, or that in their opinion special circumstances exist which render it impracticable for the owner or lessee to utilize the land as a building site

152. Any person who has, in respect of any land or building which has been assessed to the consolidated rate, paid the occupier's share of such rate for the whole of any quarter, shall be entitled to a refund of

Refund of occupier's share of consolidated rate

*(Part IV.—Chapter X.—The consolidated rate.—
Sections 153—158.)*

the rate so paid for any period in that quarter during which he did not occupy such land or building, provided that such person has given notice in writing of the facts to the Executive Officer.

Notice under section 151 or section 152, when to be delivered.

153. Every notice referred to in section 151 or section 152 shall be given during the period for which the land or building is unoccupied and unproductive of rent, or during the period of the vacancy, as the case may be; and such period shall be calculated from the date on which such notice is delivered at the municipal office:

Provided that, if the notice is delivered within seven days of the vacancy, the remission shall be allowed with effect from the date of the vacancy.

Application for refund, when to be made.

154. No refund of any amount shall be made under section 151 or section 152 unless the same is applied for within one year from the date on which the amount was paid.

Notice of re-occupation, when to be given.

155. Whenever any land or building which has been assessed to the consolidated rate and has been unoccupied is re-occupied, the person liable to pay the owner's share of the rate in respect of such land or building shall, within fifteen days from the date of re-occupation, give notice thereof in writing to the Executive Officer.

Rate payable from date of re-occupation.

156. Whenever any land or building which has been assessed to the consolidated rate and has been unoccupied is re-occupied during any quarter, the occupier's share of the rate in respect of such land or building shall be payable from the date of such re-occupation.

Power of Executive Officer to levy entire rate from owner in certain cases.

157. If any land or building is ordinarily occupied by more than one person holding in severalty, or is valued at less than two hundred rupees, the Executive Officer may, notwithstanding anything contained in section 149, levy the entire consolidated rate from the owner of such land or building.

Recovery from occupier of portion of rate paid by owner under section 157.

158. When the entire consolidated rate is paid by the owner of any land or building under section 157, such owner may, if there be but one occupier of the land or building, recover from such occupier half of the rate so paid, and may, if there be more than one occupier, recover from each occupier half of such sum as bears to the entire amount of rate so paid by the owner the same proportion as the value of the portion of the land or building in the occupation of such occupier bears to the entire value of such land or building.

of 1923.]

(Part IV—Chapter X—The consolidated rate—
Sections 159—162)

159. (1) Notwithstanding anything contained in section 149, the entire consolidated rate leviable upon a *bustee* shall, after deducting therefrom a sum equal to one-eighth of such rate, be paid by the owner of such *bustee*

Consolidated
rate to be paid by
owner of a *bustee*

Provided that if the owner of the *bustee* is also the owner of the huts therein, no such deduction shall be made.

(2) Whenever the consolidated rate is leviable upon a *bustee*, the owner of the land contained within such *bustee* may recover from the owner of each hut standing thereon—

- (i) one-half of the consolidated rate payable in respect of the land on which the hut stands,
- (ii) the entire consolidated rate payable in respect of the hut

(3) The sum deducted under sub-section (1) shall be retained by the owner of the *bustee*—

- (a) as a set-off against the expenses which may be incurred in collecting the portion of the rate recoverable under sub-section (2) from the owners of huts, and
- (b) as a commutation of all refunds in respect of huts which are vacant or which may be removed or destroyed during the continuance of the period for which the rate is leviable

160. The consolidated rate shall not be payable on account of any new huts built or any huts enlarged in a *bustee* during the year for which the valuation of the *bustee* remains in force under clause (a) of sub-section (2) of section 131

Consolidated
rate not payable
on new or en-
larged huts in a
bustee

161. The Corporation may, by order, from time to time and for such period as may be specified in the order, except any *bustee* or any part of a *bustee* from the operation of section 159, and while any such order is in force in respect of any *bustee* or part thereof, the other provisions of this Act as to the payment and recovery of the consolidated rate shall apply to such *bustee* or part

Power to Cor-
poration to except
bustee from section
159

162. The Executive Officer may, by written notice, require the occupier of any land or building to furnish him within fifteen days with the name and address of the owner of such land or building.

Requisition for
name of owner.

*(Part IV.—Chapter X.—The consolidated rate.—
Sections 163, 164.)*

Occupier liable
to owner's rate
on failure to
furnish owner's
name and address.

163. If the occupier of any land or building refuses or neglects to comply with a notice served under section 162, he shall be liable to pay the rate payable by the owner on account of such land or building; and, on non-payment thereof, the Executive Officer may recover the same by distress and sale of any movable property found on the land or in the building:

Provided that no arrear of the rate which has remained due from the owner of any land or building for more than one year shall be so recovered from the occupier thereof.

Payment of
consolidated rate,
how affected by
objections to
valuation.

164. (1) When an objection to a valuation has been made under section 139, the consolidated rate shall, pending the final determination of the objection, be paid on the previous valuation.

(2) If, when the objection has been finally determined, the previous valuation is altered, then—

(a) any sum paid in excess shall be refunded or allowed to be set off against any present or future demand of the Corporation under this Act, and

(b) any deficiency shall be deemed to be an arrear of the consolidated rate and shall be payable and recoverable as such:

Provided that—

(i) if any premises have, for the purposes of valuation under section 131, been for the first time valued or subdivided or amalgamated with any other premises, and an objection to the valuation thereof has been made under section 139, then the consolidated rate shall, pending the final determination of the objection, be paid on such valuation; and

(ii) if, when such objection has been finally determined, such valuation is reduced, and if the consolidated rate has already been paid thereon, then the sum paid in excess shall be refunded or allowed to be set off against any present or future demand of the Corporation under this Act.

of 1923.]

(Part IV—Chapter XI—Tax on carriages and animals—Sections 165—167)

CHAPTER XI

TAX ON CARRIAGES AND ANIMALS

Carriages and animals specified in Schedule VIII.

165. (1) A tax, at rates not exceeding those respectively prescribed in Schedule VIII, shall be imposed upon all carriages and animals specified in that schedule and kept or used in Calcutta, except—

Tax on carriages and animals as specified in Schedule VIII

- (o) carriages kept for sale by *bona fide* dealers in such carriages and not used for any other purpose,
- (b) carriages and animals belonging to the Government and maintained—
 - (i) for the use of the Governor of Bengal or his staff or household, or
 - (ii) for police or military purposes,
- (c) carriages and animals maintained by any authority for the purposes of a fire-brigade,
- (d) carriages and animals certified by the Commissioner of Police to be ordinarily used by the owners thereof for police purposes,
- (e) tram-cars employed in working street tramways, and exempted under any contract with the Corporation, and
- (f) houses which any person exempted from the operation of any municipal tax by an order issued under section 3 of the Municipal Taxation Act, 1881¹, is bound by the regulations of the service to which he belongs, to keep.

of 1881

(2) The rates at which the said tax is to be imposed shall be determined annually in the budget estimate prepared under Chapter VII.

166. The tax imposed under section 165 shall be payable half-yearly in advance

Tax, payable

167. (1) The owner or the person in charge of any carriage or animal liable to the tax imposed under section 165 shall, before the first day of May or first day of November in each year,—

- (a) forward to the municipal authority a statement, signed by him, containing a description of all carriages owned by him or in his charge, and liable, and

(Part IV.—Chapter XI.—Tax on carriages and animals.—Section 168.)

(b) at the same time pay to the Corporation the tax payable for the current half-year in respect of the carriages and animals specified in such statement.

(2) Any person who becomes the owner or takes charge during any half-year of any carriage or animal liable to the tax imposed under section 165 shall, within one week of his so becoming owner or taking charge,—

- (i) forward to the municipal office a statement of the kind mentioned in clause (a) of subsection (1), and
- (ii) at the same time, pay to the Corporation the tax payable in respect of such carriage or animal for the whole of the said half-year :

Provided that the tax payable in respect of any carriage or animal shall not be levied twice for the same half-year.

(3) If the Corporation are satisfied—

- (i) that any carriage liable to such tax has not been used during the half-year, or
- (ii) that any carriage or animal liable to such tax has been kept for only a portion of the half-year,

they may refund or remit the whole of the tax payable in respect of such carriage or animal for the said half-year or such portion of such tax as they may think fit.

(4) For the purpose of this section a livery stable-keeper shall be deemed to be the owner or to be in charge of every carriage or animal in his stables.

168. The Corporation may from time to time, by written notice, require the occupier of any land or building to forward to them a statement, signed by such occupier, containing—

- (i) the name and address of every person who owns or is in charge of any carriage or animal which is kept in or on such land or building and is liable to the tax imposed under section 165, and
- ii) a description of all such carriages and animals,

of 1923.]

(Part IV—Chapter XI—Tax on carriages and animals.—Sections 169—172.)

169. (1) When any person pays to the Corporation the amount of the tax imposed under section 165 which is payable in respect of all carriages and animals kept by him, the Corporation shall grant him a license to keep such carriages and animals during the current half-year, and no longer.

Grant of license on payment of tax

(2) The Corporation may at any time grant a similar license for any previous half-year for which no license has been taken out, on payment of the amount due for that half-year.

Provided that the production of such a license shall not afford a valid defence if the licensee is prosecuted for failing to take out a license within the time required by this Act.

170. The Corporation may, in their discretion, compound, for any period not exceeding one year, with any livery stable-keeper or other person keeping carriages for hire, or animals for sale or hire, for a certain sum to be paid in respect of the carriages or animals so kept by such persons in lieu of the tax imposed thereon under section 165.

Power to Corporation to compound with livery stable keepers, etc., for tax

171. The Corporation may, by written notice, require any person who carries on the trade or business of a livery stable-keeper to produce, for their inspection, all books and accounts relating to such trade or business.

Power to Corporation to require production of books and accounts by livery stable keeper

172. (1) The Corporation may inspect any stable, coach-house or other place for any of the purposes, or in pursuance of any of the provisions, of this chapter.

Power to Corporation to inspect any premises in pursuance of provisions of this chapter, and to seize and dispose of carriages and animals

(2) If, on such inspection, any carriage or animal is found in respect of which no license has been obtained, the Corporation—

(a) may, if the owner or person in charge of such carriage or animal is unknown, take possession of such carriage or animal, and

(b) shall thereupon make such order as they may think fit respecting the custody of such carriage or animal.

(3) If any person, within one month from the date of such order, establishes, to the satisfaction of the Corporation, his claim to the possession of such carriage or animal, the Corporation shall order it to be delivered to him on payment of the tax due, together with such costs as the Corporation have reasonably incurred in taking possession of and keeping the same.

(Part IV.—Chapter XI.—Tax on carriages and animals.—Section 173.)

(4) If no person within the said period satisfies the Corporation that he is entitled to the possession of such carriage or animal, the Corporation may—

- (i) cause the same to be sold for the recovery of the tax and costs referred to in sub-section (3), and
- (ii) order the sale-proceeds, after deducting therefrom the said tax and costs (together with the costs of the sale), to be paid to any person who, within six months from the date of such sale, establishes, to the satisfaction of the Corporation, his claim to such proceeds.

Dogs.

Tax on dogs.

173. (1) A tax not exceeding five rupees *per annum* shall be imposed upon every dog kept in Calcutta :

Provided that the Executive Officer may in his discretion exempt from the tax any dog which appears to him to be less than six months of age until in his opinion it shall reach that age.

(2) Such tax shall be payable yearly in advance, and the rate at which it is to be imposed shall be determined annually in the Budget Estimate prepared under Chapter VII.

(3) The owner or person in charge of any dog liable to the tax imposed under sub-section (1) shall, before the first day of May in each year,—

- (a) forward to the municipal office a list, signed by him, of all dogs owned by him or in his charge which are so liable, and
- (b) at the same time pay to the Corporation the tax payable for the current year in respect of every such dog.

(4) Any person who, in the course of any year, becomes the owner or takes charge of any dog shall, within one week of his so becoming owner or taking charge, furnish a like statement and pay to the Corporation the tax payable for that year in respect of such dog :

Provided that the tax payable in respect of any dog shall not be levied twice for the same year.

of 1923.]

(Part IV—Chapter XI.—Tax on carriages and animals—Section 174)

174. (1) When any person has paid to the Corporation the tax payable in respect of any dog, the Corporation shall—

License and
number ticket
for, and disposal
of, dogs

(a) grant him a license to keep such dog during the current year, and

(b) provide him with a number-ticket, the number whereof shall be specified in the said license

(2) The owner or person in charge of any dog so licensed shall at all times cause the said number-ticket to be kept attached to the collar or otherwise suspended from the neck of the dog

(3) Any dog which has no such number-ticket for the then current year so attached or suspended—

(i) shall be presumed to be an unlicensed dog, and

(ii) may be seized by the police or by any person duly authorized by the Corporation in this behalf, and detained until the tax due (if any) has been paid

(4) If any person, within seven days from the date of such seizure, satisfies the Corporation that he is the owner or keeper of such dog, the Corporation shall order it to be delivered to such person on payment of the tax due (if any), together with the costs incurred by the Corporation in keeping the dog

(5) If, within the said seven days, no person satisfies the Corporation that he is the owner or keeper of the dog or pays the said tax and costs, the Corporation may cause the dog either—

(a) to be destroyed, or

(b) to be sold and the sale-proceeds, after deducting therefrom the said tax and costs (together with the costs of the sale) to be paid to any person who, within six months from the date of such sale, establishes, to the satisfaction of the Corporation, his claim to such proceeds.

(Part IV.—Chapter XII.—Tax on professions, trades and callings.—Sections 175, 176.)

CHAPTER XII.

TAX ON PROFESSIONS, TRADES AND CALLINGS.

Licenses to be taken out annually.

175. Every person who exercises or carries on in Calcutta, either by himself or by an agent or representative, any of the professions, trades or callings indicated in Schedule VI, shall annually take out a license and pay for the same such fee as is mentioned in that behalf in the said schedule :

Provided that the grant of such a license shall not be deemed to affect the liability of the licensee to take out a license under any other section of this Act :

Provided also that the Corporation may—

- (a) remit or refund any portion of the fee so payable in respect of the exercise or carrying on of any profession, trade or calling, if they are satisfied that the profession, trade or calling has been exercised or carried on for six consecutive months only ; or,
- (b) when any person is, in the opinion of the Corporation, unable to pay the fee due for a license, exempt him from liability to take out such license, or declare that he shall be entitled to take out a license under a lower class than that under which he is chargeable according to the said schedule ; or,
- (c) in any other case, exempt any person from liability to take out a license or declare that any person shall be entitled to take out a license under a lower class than before.

Grant and contents of licenses.

176. (1) Every license mentioned in section 175 shall, in addition to the particulars required by section 498, sub-section (1), specify—

- (a) the profession, trade or calling in respect of which it is granted ; and
- (b) if the license is a local license as defined in rule 2 of Schedule VI, the place of business where the said profession, trade or calling is exercised or carried on.

(2) The Corporation may at any time grant a license for any previous year for which no license has been taken out, on payment of the fee which

of 1923.]

(Part IV—Chapter XII—Tax on professions, trades and callings—Chapter XIII—Scavenging-tax—Sections 177—179)

would have been payable therefor in the first instance

Provided that the production of such a license shall not afford a valid defence if the licensee is prosecuted for failing to take out a license within the time required by this Act

177. The liability of any person to take out a license, and the class under which he shall be deemed bound to take out a license, shall be determined in accordance with the rules contained in Schedule VI

Liability an
class how to b
determined

178. The Corporation may, by written notice, require the occupier of any building or place of business to forward to them within seven days a list, signed by such occupier, of the names of all persons exercising or carrying on any profession, trade or calling therein, and of their respective professions, trades and callings

Power to Cor
poration
require list o
persons

CHAPTER XIII

SCAVENGING-TAX

179. Every person who exercises in Calcutta any of the callings indicated in Part I of Schedule IX shall every half-year take out a license and pay for the same a fee, to be calculated—

License to b
taken o t bal
yearly, and fee t
e paid therefor

- (a) according to the average number of animals kept by him in the exercise of such calling, as determined from time to time by the Corporation, or
- (b) in the case of the owner or occupier of a market, according to the average quantity of offensive matter and rubbish removed daily, as determined from time to time by the Corporation,

at the rates mentioned in Part II of the said schedule

Provided that the Corporation may remit or refund the whole or any portion of the fee so payable by any person in respect of any half-year if they are satisfied that such person himself removes the offensive matter and rubbish accumulating on his premises or has exercised his said calling for a portion only of such half-year

(Part IV.—Chapter XIII.—Scavenging-tax.—Chapter XIV.—Tax on petroleum.—Sections 180—182.)

Grant and contents of licenses,

180. (1) Every license mentioned in section 179 shall, in addition to the particulars required by section 498, sub-section (1), specify—

(a) the calling in respect of which it is granted; and

(b) the animals in respect of which it is granted, or, in the case of a market, the average quantity of offensive matter and rubbish removed daily, as determined by the Corporation.

(2) Every such license shall be taken out not later than the first day of June or the first day of December in each year, as the case may be.

CHAPTER XIV.

TAX ON PETROLEUM.

Control by Corporation of storage and taxation of petroleum.

181. (1) The Corporation may, by notification in the *Calcutta Gazette* and with the previous sanction of the Local Government, prohibit the introduction into Calcutta, for the purpose of storage therein, of petroleum intended for consumption elsewhere.

(2) No person shall introduce petroleum into Calcutta in contravention of any notification published under sub-section (1).

(3) When any such notification has been published, a tax not exceeding four annas for every ten gallons may, with the sanction of the Local Government, be imposed in the manner provided by Chapter VII, on all petroleum introduced into Calcutta for consumption therein.

Confiscation of petroleum.

182. (1) All petroleum introduced into Calcutta in contravention of any notification published under section 181, sub-section (1), or of any by-law made under clause (2) of section 478, may be seized and confiscated.

(2) All petroleum confiscated under this section shall become the property of the Corporation.

of 1923.]

(Part IV—Chapter XV—Tax on carts—
Section 183)

CHAPTER XV

TAX ON CARTS

183. (1) Every cart kept or used in Calcutta or the Municipality of Howrah except—

registration
and numbering
of carts

- (a) carts which are the property of the Government,
- (b) carts which are the property of the Corporation of Calcutta, of the Commissioners of the Municipality of Howrah or of any other municipality in the neighbourhood of Calcutta or Howrah, declared by notification under section 185 as being entitled to a share in the cart-registration fees,
- (c) carts which are kept at any place more than eight miles distant from Government House and are only temporarily and infrequently used in Calcutta or the Municipality of Howrah,
- (d) carts belonging to the Government and maintained—
 - (i) for the use of the household and establishment of the Governor of Bengal, or
 - (ii) for police or military purposes, and
- (e) carts maintained by any authority for the purposes of a fire-brigade,

shall be registered at the municipal office with the name and residence of the owner, and the place where the cart is ordinarily kept and shall have a number-plate, showing the number of such registration affixed thereto in such manner as the Corporation may direct

(2) Such registration shall be made, and the said numbers assigned, half-yearly, upon such dates as the Corporation may appoint in that behalf.

(3) No person shall keep or be in possession of a cart not duly registered under this section

(4) No owner or driver of a cart shall fail to affix thereto a number-plate as required by sub-section (1).

(5) The Corporation may refuse to register any cart which fails to conform to the by-laws made in regard to carts under this Act.

(Part IV.—Chapter XV.—Tax on carts.—Sections 184, 185.)

Fees for registration of carts.

184. (1) The fee payable for each registration under section 183 shall be as follows :—

	Rs.
(a) for every cart propelled by mechanical power ...	20, and a further sum of Rs. 5 per ton of the full carrying capacity of the cart.
(b) for every trailer (being a cart) drawn by a cart referred to in clause (a) ...	25
(c) for every other cart ...	4

and an additional charge of one rupee shall also be payable in each case for the number-plate to be affixed to the cart or trailer :

Provided that, if such number-plate is returned to the municipal office in serviceable condition, the said additional charge shall be refunded or set off against the charge leviable for a new number-plate.

(2) The Corporation may, in their discretion, remit any portion of the fee leviable under sub-section (1) in respect of any cart if they are satisfied that the same has been kept or used for a portion of the half-year only.

(3) When the ownership of any registered cart is transferred during any half-year, it shall be re-registered in the name of the person to whom it has been transferred; and a fee of four annas shall be paid for every such re-registration.

Division of proceeds of registration fees, etc.

185. After deduction of the costs incurred on account of the registration of carts and the supply of number-plates under this chapter, the total net proceeds of the fees and charges received by the Corporation for such registration shall be divided between the Corporation of Calcutta and the Commissioners of the Municipality of Howrah and such other municipalities in the neighbourhood of Calcutta or of the Municipality of Howrah as the Local Government shall declare, by notification in the *Calcutta Gazette*, to be entitled to a share in such proceeds, in such proportion as the Local Government may from time to time determine.

of 1923.]

(Part IV.—Chapter XV—Tax on carts—Sections
186, 187.)

186. (1) If any person owns or keeps any cart not duly registered under section 183, the Corporation may seize such cart, together with the animals (if any) drawing it, and detain the same in a place to be appointed by them in this behalf

Seizure and sale of unregistered carts and application of proceeds of sale

Provided that no cart shall be so seized while conveying passengers or goods

(2) If any cart or animals so seized be not claimed within ten days from the date of the seizure, it or they may be sold by auction by order of a Magistrate.

(3) The proceeds of such sale may be applied in defraying the expenses incurred on account of the seizure, detention and sale, and the surplus (if any), if not claimed within a period of sixty days from the date of such sale, shall be paid to the credit of the Municipal Fund

187. (1) No person shall drive a cart without carrying exposed to view a ticket granted by the Corporation bearing the registration number as driver.

No person to drive cart without a registration ticket

(2) The Corporation shall maintain a register of cartmen, authorized to drive carts, which shall contain—

(a) the number of the ticket,

(b) the name, the father's name, the place of abode and age of the person to whom the ticket is granted,

(c) the description of cart such person is authorized to drive, and

(d) the date on which the ticket is granted

(3) No cartman shall use or wear a ticket granted to him under this section if the number thereon has become indistinct or obliterated, or shall for the purpose of this section use or wear any ticket resembling or intending to resemble a ticket granted under this section, or wear a ticket granted to another cartman.

(4) The Corporation shall, upon the application of any driver of a cart whose ticket has become indistinct or obliterated, supply such driver with a new ticket upon payment of a fee of not more than two annas or when they are satisfied that a ticket has been lost, may supply a new ticket on payment of a like fee.

(Part IV.—Chapter XVI—Recovery of the consolidated rate and other taxes.—Sections 188—190.)

CHAPTER XVI.

RECOVERY OF THE CONSOLIDATED RATE AND OTHER TAXES.

Saving of other chapters.

188. The provisions of this chapter shall be deemed to be in addition to, and not in derogation of, any powers conferred by or under other chapters of this Act for the collection or recovery of the consolidated rate and other taxes.

The consolidated rate.

Presentation of bills.

189. (1) When the consolidated rate or any instalment thereof is due, the Corporation shall, with the least practicable delay, cause to be presented to the person liable a bill for the sum due.

(2) Every such bill shall specify the period for which, and the premises in respect of which, the rate is charged.

(3) When any person is liable for the consolidated rate on account of more premises than one, the Corporation may charge to him in one or several bills, as they may think fit, the several sums payable by him as such rate, on account of such premises :

Provided that if such person, by written notice to the Corporation, requests to be furnished with separate bills for such sums, the Corporation shall comply with such request in respect of all payments on account of the said rate for which such person becomes liable after receipt by the Corporation of such notice.

Notice of demand.

190. (1) If the amount for which any bill has been presented under section 189 is not paid within seven days from such presentation, into the municipal office or to a municipal officer appointed to receive the same, the Corporation may cause to be served upon the person liable a notice of demand in the form in Schedule X, or in a form to the like effect.

(2) For every such notice of demand a fee of such amount, not exceeding one rupee, as may in each case be fixed by the Corporation, shall be payable by the said person. and the said amount shall be included in the costs of recovery.

of 1923.]

(Part IV.—Chapter XVI—Recovery of the consolidated rate and other taxes—Sections 191—193)

191. (1) If the person liable for the payment of the consolidated rate does not, within seven days from the service of a notice of demand under section 190, pay the sum due, or show sufficient cause to the satisfaction of the Corporation for non-payment of the same,

Distrain
Calcutta

12

such sum, with all costs of recovery, may be recovered under a warrant in the form in Schedule XI, or in a form to the like effect, to be issued by the Corporation—

(a) by distress and sale of any movable property belonging to such person, or

(b) if such person be the occupier of any premises in respect of which the sum is due, by distress and sale of any movable property found on the said premises.

Provided that, when the premises in respect of which the default is committed are a place of business, and the movable property distrained under clause (b) is shown to the satisfaction of the Corporation to have been left there (by some person other than the person referred to in that clause) for repairs or safe custody in the ordinary course of business, it shall be released

(2) The movable property of any person liable for the payment of any sum, for the recovery of which a warrant has been issued under sub-section (1), may be distrained wherever the same may be found in Calcutta.

(3) For every warrant issued under this section, a fee shall be charged at the rate mentioned in that behalf in Schedule XII, and the amount of the said fee shall be included in the costs of recovery.

192. The Corporation may, in their discretion, remit the whole or any part of any fee chargeable under section 190, sub-section (2), or section 191, sub-section (3)

Power to Corporation to remit certain fees

193. Any officer charged with the execution of a warrant of distress issued under section 191, may, if authorized by a general or special order in writing by the Corporation, between sunrise and sunset break open any outer or inner door or window of a building in order to make the distress—

Power to officer to break open door or window

(a) if he has reasonable ground for believing that such building contains property which is liable to such distress, and

(Part IV.—Chapter XVI.—Recovery of the consolidated rate and other taxes.—Sections 194—197.)

(b) if, after notifying his authority and purpose, and duly demanding admittance, he cannot otherwise obtain admittance:

Provided that such officer shall not enter, or break open the door of, any apartment appropriated to the use of females, until he has given not less than three hours' notice of his intention and has given such females an opportunity to withdraw.

Officer executing warrant to make inventory and notice of sale.

194. The officer charged with the execution of a warrant of distress issued under section 191, shall forthwith make in the presence of two witnesses an inventory of the movable property which he seizes under such warrant, and shall at the same time give a written notice, in the form in Schedule XIII, or in a form to the like effect, to the person in possession thereof at the time of seizure, that such property will be sold as therein mentioned.

Power to said officer to take away property if forcible removal apprehended.

195. If there is reason to believe that any property seized under a warrant of distress issued under section 191 is likely, if left in the place where it is found, to be removed by force, the officer executing the warrant may take it to the municipal office or to any place appointed by the Corporation.

Distresses to be proportionate to sum distrained for.

196. The amount of property seized in any distress made under this Act shall not be disproportionate to the amount of the arrears due.

Sale and disposal of proceeds.

197. (1) If a warrant of distress issued under section 191 is not in the meantime suspended by the Corporation or discharged, the movable property seized thereunder shall, after the expiry of the period mentioned in the notice served under section 194, be sold by order of the Corporation.

(2) All sales of property under this section shall, so far as may be practicable, be regulated by the procedure for the time being in force in the Court of Small Causes of Calcutta, with respect to sale after distress.

(3) No municipal officer or servant shall directly or indirectly purchase any property at any such sale.

(4) The Corporation shall apply the proceeds of every such sale, or such part thereof as shall be requisite, in discharge of the sum due and of the costs of recovery.

(5) The surplus (if any) of such proceeds shall be forthwith credited to the Municipal Fund; but, if the same be claimed by written application to the Corporation within three years from the date of the sale,

of 1923.]

(Part IV.—Chapter XVI—Recovery of the consolidated rate and other taxes—Sections 198—200)

a refund thereof shall be made to the person who was in possession of the movable property at the time of its seizure

(6) Any such surplus not so claimed shall be the property of the Corporation

198. (1) If the proceeds of any sale under section 197 are not sufficient to cover the sum due, together with the costs of recovery, the Corporation may issue a fresh warrant of distress in the form in Schedule XI, or in a form to the like effect, for the recovery of the balance due and for all additional costs thereof

Power to Corporation to issue fresh warrant when sale-proceeds insufficient

(2) The provisions of sections 191 to 197, inclusive, shall, with all necessary modifications, be deemed to apply whenever a warrant is issued under sub-section (1)

199. (1) If the sum due from the owner of any land or building on account of the consolidated rate remains unpaid after notice of demand has been duly served upon him, the Corporation may cause a notice of demand to be served upon the occupier of such land or building, or upon any of his sub-tenants for the time being thereof.

Recovery of owner's share of rate from occupier or his sub-tenants, and deduction of amount from rent

(2) If such occupier or any of such sub-tenants fails within fifteen days from the service of such notice to pay the amount therein demanded, the said amount may be recovered from him by distress and sale under the provisions of this chapter.

(3) No part of the owner's share of the consolidated rate shall be recovered from any occupier or sub-tenant under this section if it has remained due for more than one year or if it is due on account of any period during which such occupier or sub-tenant was not in occupation of the land or building in respect of which the rate is due

(4) If any sum is paid by or recovered from any occupier or sub-tenant of any land or building under this section, he shall be entitled to deduct the same from the rent payable by him in respect of such land or building for the period for which the arrear of consolidated rate was due, or for any subsequent period.

200. The purchaser of—

(a) any land or building, or,

(b) any share, divided or undivided, in any land or building,

Liability of purchaser for vendor's share of consolidated rate

in respect of which any sum is due at the time of purchase on account of the owner's share of the

(Part IV.—Chapter XVI.—Recovery of the consolidated rate and other taxes.—Sections 201—203.)

the consolidated rate, shall be liable for the said sum :

Provided that such purchaser shall not be liable for any sum so due for any period exceeding one year prior to the date of the purchase.

Execution of
distress warrant
outside Calcutta.

201. (1) When a warrant of distress has been issued against any person under section 191 or section 198—

- (a) if no sufficient movable property belonging to the said person can be found in Calcutta, or,
- (b) when the said person is the occupier of premises in respect of which the consolidated rate is due, if no sufficient movable property can be found on such premises,

the Corporation may issue a warrant, to any Magistrate in Bengal without Calcutta, for the distress and sale of any movable property belonging to the said person within the jurisdiction of such Magistrate.

(2) Any Magistrate to whom a warrant is so issued shall—

- (i) endorse the same and cause it to be executed, and
- (ii) remit the proceeds of the sale under such warrant to the Corporation.

(3) Such proceeds shall be dealt with under the provisions of section 197.

Distrain not
unlawful for want
of form.

202. No distress levied under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of—

- (a) any defect or want of form in the notice, summons, notice of demand, warrant of distress, inventory or other proceeding relating thereto, or
- (b) any irregularity committed by the said person :

Provided that any person aggrieved by such defect or irregularity may recover, in any Court of competent jurisdiction, full satisfaction for any special damage sustained by him.

Power to Cor-
poration to take
summary proceed-
ings against per-
sons about to
leave Calcutta.

203. (1) If the Corporation at any time have reason to believe that any person from whom any sum is due on account of the consolidated rate is about forthwith to remove from Calcutta, the Corporation

of 1923.]

(Part IV—Chapter XVI—Recovery of the consolidated rate and other taxes—Sections 204—206)

may direct the immediate payment by such person of the sum so due and cause a bill for the same to be presented to him

(2) If, on presentation of such bill, the said person does not forthwith pay the sum due by him, the amount shall be leviable by distress and sale under the provisions of this chapter

Provided that—

(a) it shall not be necessary to serve upon the said person any notice of demand and

(b) the warrant of distress may be issued and executed without any delay

204. It shall be competent to the Corporation instead of proceeding against a defaulter by distress and sale under the provisions of this chapter, or after a defaulter has been so proceeded against unsuccessfully or with only partial success, to recover from him by suit, in any Court of competent jurisdiction, any sum due, or the balance of any sum due, as the case may be on account of the consolidated rate, together with all costs

Power to Corporation to sue for arrears

205. The consolidated rate due from any person in respect of any land or building shall, subject to the prior payment of the land revenue (if any) due to the Government thereupon, be a first charge upon the said land or building and upon the movable property (if any) found within or upon such land or building and belonging to the said person

The consolidated rate to be a first charge on premises

Other taxes.

206. (1) When any sum is due from any person on account of—

(a) the tax on carriages and animals,

(b) the tax on professions, trades and callings, or

(c) the scavenging-tax,

Power to Corporation to prosecute or serve notice of demand

the Corporation may either prosecute such person under section 192 or cause to be served on him a notice of demand in the form in Schedule X or in a form to the like effect.

(2) The provisions of section 190, sub-section (2), section 192 and clause (a) of section 202 shall, with all necessary modifications, be deemed to apply to every such notice of demand

(Part IV.—Chapter XVI.—Recovery of the consolidated rate and other taxes.—Sections 207—210.)

Election by defaulter to pay or to appear before Magistrate or Corporation.

207. Within seven days after the service on any person of a notice of demand under section 206, such person may—

- (a) pay the sum demanded together with any fee imposed under section 190, sub-section (2), or
- (b) send a letter to the Corporation enclosing the sum demanded and electing to be prosecuted under section 492, or
- (c) appear before the Corporation personally or by agent, and contest the demand.

Procedure by Corporation after election by defaulter under section 207.

208. (1) If any person adopts the procedure provided by clause (b) of section 207, he shall be prosecuted as therein mentioned,

and the sum deposited under that clause shall be deducted from the amount of any fine imposed under section 492.

(2) If he contests the demand in pursuance of clause (c) of section 207, the decision of the Corporation, after hearing anything that may be urged by him or on his behalf, shall be final,

and if the Corporation find that the whole amount of the demand is due, they may, by way of penalty for previous failure to pay such amount, increase the same by any sum not exceeding fifty per cent. thereof.

Power to Corporation to increase penalty where defaulter does not appear before Magistrate or Corporation.

209. If, within seven days after the service on any person of a notice of demand under section 206, the said person has not taken any of the courses permitted by section 207, the Corporation may, by way of penalty for previous failure to pay the amount due, increase the same by any sum not exceeding fifty per cent. thereof.

Distrain

210. (1) If, in any case referred to in section 208, sub-section (2), or section 209, the amount of the demand, together with the amount of any penalty imposed thereunder, be not forthwith paid by the person liable to pay the same,

such amount may, with all costs of recovery, be recovered under a warrant in the form in Schedule XI, or in a form to the like effect, by distress and sale of the movable property of such person.

(2) The provisions of sections 191 to 198 and sections 201 to 203, inclusive, shall, with all necessary modifications, be deemed to apply whenever a warrant is issued under sub-section (1).

of 1923.]

(Part IV.—Chapter XVI.—Recovery of the consolidated rate and other taxes.—Part V.—Chapter XVII.—Water-supply—Sections 211—214)

211. (1) Notwithstanding anything contained in section 210, if any person included under class VIII, number 81, or class IX, number 83, in Schedule VI fails to take out a license under section 175, the Corporation may cause the goods, which such person is hawking for sale, to be seized.

Power to Corporation to seize hawkers' goods

(2) Any goods so seized shall be dealt with under the provisions of this chapter, as property distrained under section 191.

Supplemental provisions.

212. (1) No assessment and no charge or demand of the consolidated rate or any other tax made under this Act shall be called in question or in any way affected by reason of—

Taxes not invalid for defect of form

(a) any mistake—

(i) in the name, residence, place of business or occupation of any person liable to pay the tax, or

(ii) in the description of any property or thing liable to the tax, or

(iii) in the amount of assessment of tax; or

(b) any clerical error; or

(c) any other defect of form.

(2) It shall suffice in the case of any such tax on property or any assessment of value for the purpose of any such tax, if the property taxed or assessed is so described as to be generally known,

and it shall not be necessary to name the owner or occupier thereof

213. The Corporation may order to be struck off the books any sum due on account of the consolidated rate or any other tax or any other account, which may appear to them to be irrecoverable.

Cancellation of irrecoverable dues

PART V.

THE PUBLIC HEALTH, SAFETY AND CONVENIENCE.

CHAPTER XVII.

WATER-SUPPLY.

Proprietary rights of the Corporation.

214. All public tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, taps and other water-works, whether made, laid or erected at the cost

Public water-works, etc., vested in the Corporation

*(Part V.—Chapter XVII.—Water-supply.—
Sections 215—217.)*

of the Municipal Fund, or otherwise, and all bridges, buildings, engines, works, materials and things, connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank, shall be vested in the Corporation.

*General duties of the Corporation in respect
of the supply of water.*

Corporation to
provide supply of
filtered and un-
filtered water.

215. (1) The Corporation shall provide—

- (a) a supply of filtered water in all parts of Calcutta, and
- (b) a supply of unfiltered water—
 - (i) in those parts of Calcutta in which such water is provided at the commencement of this Act, and
 - (ii) in such other parts of Calcutta as they may think fit.

(2) Notwithstanding anything contained in subsection (1), the Corporation may discontinue the supply of unfiltered water in any part of Calcutta :

Provided that where the supply of unfiltered water is so discontinued—

- (a) filtered water may be used for non-domestic purposes and for the purposes mentioned in section 221, and
- (b) a sufficient quantity of filtered water shall, subject to the provisions of section 223, be supplied for all such purposes, in lieu of the unfiltered water discontinued as aforesaid.

Bathing plat-
forms and public
stand-posts.

216. (1) The Corporation shall erect sufficient and convenient bathing platforms and public stand-posts for the supply, free of charge, of filtered water for bathing and other domestic purposes.

(2) All such bathing platforms and stand-posts shall be supplied with a sufficient quantity of filtered water.

Hydrants, etc.,
for street-water-
ing, etc.

217. On all distribution pipes in the unfiltered water system and, if the Corporation so direct, also in the filtered water system, suitable hydrants shall be provided for street-watering, fire-extinguishing, washing down hackney-carriage stands, and flushing street-gullies, together with such sluices, valves and appliances as may be necessary for the flushing of the municipal drains.

of 1923.]

(Part V—Chapter XVII—Water supply—Sections 218—221)

218. The pressure of the supply of filtered water in the municipal muns in Calcutta shall continuously be not less than forty feet, Pressure of supply

and the pressure of the supply of unfiltered water shall likewise be not less than forty feet, except during those hours when the pressure is locally reduced by street-watering, drain-flushing or extinguishing fire

Provided that the Corporation, by a resolution in favour of which not less than two-thirds of the Councillors and Aldermen present and voting have voted, may authorize a lower pressure in any case where, owing to causes over which the Corporation have no control, or by reason of other circumstances, it is impracticable to secure a pressure of forty feet

219. It shall be the duty of the Corporation to test the purity of the supply of filtered water once every week Testing of filtered water

Use of water

220. (1) Subject to the provisions of sections 215, sub-section (2), and 230 filtered water shall be supplied for domestic purposes only Use of filtered water

(2) No person shall, without the written permission of the Corporation, use for other than domestic purposes filtered water supplied under this chapter for domestic purposes

Provided that, in case of emergency, filtered water may be used for extinguishing fire

221. (1) Unfiltered water shall be used for public purposes, such as— Use of unfiltered water.

(a) street-watering,

(b) flushing of municipal drains, public privies and urinals, gully pits and hackney-carriage stands, and

(c) extinguishing fire,

and shall also be used for such other purposes as the Corporation may direct

(2) Unfiltered water may also be used, free of charge,—

(i) for flushing privies and urinals on private premises connected with the sewers, and

(ii) for flushing drains on private premises and for cleansing stables, cattle-sheds and cow-houses occupied by animals which are not kept for profit or hire.

(Part V.—Chapter XVII.—Water-supply.—Sections 222—225.)

(3) Unfiltered water shall not be used for domestic purposes.

Supply of
filtered water
for purposes
other than domestic
purposes.

222. A supply of filtered water for purposes other than domestic purposes shall be made upon such terms and conditions as to payment and quantity and for such period, as the Corporation may think fit.

Private supply of water to premises.

Right of occupier
of connected
premises to
receive water in
consideration of
payment of the
consolidated rate.

223. The occupier of any premises connected with the municipal water-supply shall be entitled to have, free of further charge, not more than fifteen hundred gallons of filtered water for every rupee paid to the Corporation as the consolidated rate on account of such premises, together with a sufficient supply of unfiltered water for flushing privies, urinals and drains within the premises and for cleansing stables, cattle-sheds and cow-houses within the premises which are occupied by animals not kept for profit or hire:

Provided that—

(a) in no masonry building directly connected with the municipal water-supply shall the free allowance of filtered water be less than twenty-five, or more than fifty gallons per head per day, calculated upon the ordinary number of inmates of the building, as determined by the Corporation; and

(b) if, under the provisions of this chapter, the Corporation at any time permanently discontinue the unfiltered water-supply, the Corporation may fix such larger free allowance of filtered water per day, in lieu of the supply of unfiltered water, as they may think fit.

Power to Corporation to allow
occupier of
premises to lay
down service-pipes.

224. Subject to such conditions as they may from time to time impose, the Corporation may allow any person occupying any premises to lay down service-pipes from the mains of the Corporation for the purpose of bringing into the premises a supply of filtered and unfiltered water for use therein under the provisions of this chapter.

Requisition by
occupier of
masonry building
or owner to
provide works for
supply of water.

225. (1) Any occupier of a masonry building who holds the same direct from the owner may, by written notice signed by him, require the owner to provide all such necessary works as may be required

of 1923.]

(Part V.—Chapter XVII—Water-supply—Sections 226—228)

for bringing into the premises within which such building is situate a sufficient supply of filtered water for domestic purposes and a sufficient supply of unfiltered water for the purposes specified in section 221, sub-section (2)

(2) Every such notice shall contain an undertaking on the part of the occupier—

(a) to pay, during the residue of his term of occupation, interest at the rate of one *per cent per mensem*, calculated from the date of the completion of the works on the cost of all works so provided by such owner, and,

(b) if the premises do not abut upon some street in which there is a supply-main, to pay the cost of connecting the premises with the nearest supply-main

226. If any owner upon whom a notice has been served under section 225 does not within one month from such service, cause all necessary works as required by the said notice to be provided or completed, the occupier who gave the notice may cause the works to be provided or completed,

Provision or completion of works by occupier in default of owner, and deduction of expenses from rent

and may deduct from the rent payable by him to such owner the expenses incurred by him in respect of such works, except so much of such expenses as may have been incurred under the circumstances mentioned in clause (b) of sub-section (2) of section 225.

227. (1) If there is any difference between the owner and the occupier of any premises respecting the cost or the sufficiency of the water-supply thereof, either party may refer such difference to the Corporation, and the written award of the Corporation shall be binding on such owner and occupier

Arbitration in case of difference between owner and occupier

(2) There shall be payable to the Corporation, by the person making a reference under sub-section (1), a fee at the rate of two rupees for every one hundred rupees of the monthly rent of the said premises

Provided that such fee shall in no case exceed ten rupees.

228. Whenever it appears to the Corporation that any premises are without a sufficient supply of water, and that such a supply of water can be furnished from a main not more than one hundred feet distant from the nearest part of such premises, the Corporation may, by written notice, require the owner to obtain such supply and for that purpose to lay

Power to Corporation to direct owner to obtain sufficient supply of water from nearest main

(Part V.—Chapter XVII.—Water-supply.—Sections 229, 230.)

down such pipes, hydrants, stand-posts and other fittings and execute all such other works as the Corporation may direct :

Provided that—

- (a) in any case in which the owner satisfies the Corporation that he is too poor to bear the cost of the said works, the Corporation may pay the whole or any part of such cost from the Municipal Fund ; and
- (b) if any premises in respect of which any notice is issued under this section are occupied by a person other than the owner, the occupier shall be bound, if the Corporation so direct, to make to the owner, in respect of all works executed in pursuance of such notice, the payments prescribed by clause (a), or clauses (a) and (b), as the case may be, of sub-section (2) of section 225.

Water-supply
not to be directly
connected to huts.

229. Notwithstanding anything contained in this chapter, the municipal water-supply shall not be directly connected to any hut, but a sufficient supply of unfiltered water shall be provided for the flushing of any connected-privy attached to a hut :

Provided that the Corporation may supply a direct filtered water connection to a hut on such conditions as they may impose and subject to such rules as may be made by them in this behalf.

Power to Cor-
poration to sell
water for other
than domestic
purposes.

230. (1) The Corporation may, in their discretion and subject to such conditions as they may from time to time impose, supply filtered or unfiltered water for any purpose other than a domestic purpose, on receiving a written application specifying the purpose for which such supply is required and the quantity likely to be consumed :

Provided that where, in the opinion of the Corporation, the supply of unfiltered water might possibly lead to contamination, only filtered water shall be supplied—

- (a) for use by persons who manufacture articles for consumption by human beings, or
- (b) for cow-houses where cows are kept for the purpose of supplying milk for sale.

(2) For all water supplied under sub-section (1), payment shall be made at such rate as may be prescribed by the Corporation.

of 1923.]

(Part V—Chapter XVII—Water-supply—Sections
231—234)

(3) When any application under sub-section (1) is received, the Corporation may, subject to such charges or rates as may have been fixed by them, place, or allow to be placed, the necessary service-pipes, taps and works (including water-meters) of such dimensions and character as may be prescribed by them, and may arrange for the supply of water through such pipes, taps, works and meters

Supply of water to ships

231. (1) Filtered water from public stand-posts may be used, free of charge, for domestic purposes on ships for the time being lying in the Port of Calcutta

Supply of
filtered water to
ships

(2) The Corporation shall, on demand, supply every ship leaving the Port of Calcutta with a reasonable supply of filtered water for use on the voyage, at such price, not exceeding five rupees for every thousand gallons, as the Corporation may determine

*Private connections of premises to the water-supply
and maintenance thereof*

232. All private connections of premises to the municipal mains for the supply of water therein, and all pipes, taps and other fittings used for such supply, shall be made, maintained and regulated in accordance with, and subject to, the rules contained in Schedule XIV

Rules as to
private connec-
tions to premises

233. Except in the case of a special agreement to the contrary, the owner of any premises shall bear the expense of keeping all works connected with the supply of water thereto in substantial repair, and, if he fails to do so, the occupier may, after giving the owner three days' notice in writing himself have the repairs executed and deduct the expenses thereof from any rent which is due from him to the owner in respect of such premises

Owner to keep
works in repairs

Provided that nothing in this section shall affect the liabilities of parties under leases executed or made before the first day of April 1889

234. The Corporation may, if they think fit, take charge of all communication-pipes and fittings of any existing private service connected with the municipal water-supply up to and including the stop-cock nearest the supply-main for the said service, and such communication-pipes and fittings shall thereafter vest in, and be maintained at the expense of, the Corporation as part of the municipal water-works

Power to Cor-
poration to take
charge of private
connections

(Part V.—Chapter XVII.—Water-supply.—Section
235.)

*Regulation of consumption of water, and provision
of meters.*

Power of Cor-
poration to
establish block
meters for the
supply of
filtered water.

235. (1) The Corporation may establish for any area in Calcutta such blocks as they may think fit in order to regulate the supply and consumption of filtered water, and shall cause each such block to be provided with a meter through which the whole supply of filtered water for such block shall pass and be recorded.

(2) Such meters shall be read at such intervals as may from time to time be fixed by the Corporation, and the quantity indicated by any such meter as supplied shall be presumed to be correct until the contrary is proved.

(3) The Corporation shall from time to time determine the supply of filtered water to which any block shall be entitled, having regard to the provisions of section 223 and to the amount of the consolidated rate payable for such block, and making the allowance for water used at street stand-posts and public bathing platforms, and for loss through leakage or otherwise, as they may deem just and fair.

(4) If the Corporation are satisfied that in any block the quantity of filtered water consumed is in excess of the quantity to the supply of which such block is entitled, they shall cause a warning notice to be served on the occupiers of all premises in the block. If, after the service of such notice, such excess consumption still continues, the excess quantity shall be charged for from the quarter following that in which the notice was served and shall be recoverable from the occupiers of all such premises in such block as are connected with the filtered water-supply, and the occupier of each such premises shall be liable to pay a share of the cost of such excess calculated on the proportion of the amount of the consolidated rate payable in respect of the said premises to the total amount of the consolidated rate payable by persons who are liable to pay the cost of the excess:

Provided that any occupier of any such premises who has provided a separate meter attached to the service-pipe thereof, shall not be liable to pay any proportionate share as aforesaid, but shall pay for any excess, which such meter shows to have been supplied

of 1923.]

(Part V.—Chapter XVII —Water-supply —Sections 236—238)

to him in accordance with the provisions of section 238

Provided also that, on a representation from any ten persons within the block who are held liable for the cost of such excess, the Corporation shall forthwith take into consideration the question of affixing a meter under the provisions of section 237 to the service pipe attached to any premises within the block, the occupier of which premises is alleged or is suspected by such persons to be wasting filtered water

236. (1) Whenever the Corporation have reason to believe that, as the result of defects in pipes, taps or fittings connected with the water-supply, the filtered water-supply to any premises is being wasted, they may, by written notice, require the owner and occupier of the premises, within a period of four days after service of the notice, to repair and make good any defects in the pipes, taps or fittings connected with the water supply, so as to put a stop to such waste

Prevention of waste of filtered water in premises

(2) If, after the expiration of the said period of four days, the Corporation have reason to believe that waste still continues, they may cut off the supply of filtered water to the said premises

237. (1) The Corporation may, in their discretion, provide a water-meter and attach the same to the service-pipe of any premises connected with the municipal filtered water-supply

Power to Corporation to provide water meters

(2) The expense of providing and attaching a meter under sub-section (1) shall be paid out of the Municipal Fund.

238. (1) When a meter has been attached to any premises, all filtered water which is shown thereby to have been supplied in excess of the free allowance to which the occupier is entitled under section 223 shall be paid for by him at the rate of one rupee for every three thousand gallons

Payment by occupier for filtered water supplied in excess of statutory allowance

(2) The Corporation may cause the meter to be read at any time during each quarter, but as nearly as practicable at intervals of three months

Provided that if, during any quarter, the assessment of such premises is altered, the said free allowance shall be calculated on the consolidated rate payable on the assessment as altered.

(3) If such premises are ordinarily occupied by two or more persons holding in severalty, the owner shall be liable for water supplied in excess as prescribed

(Part V.—Chapter XVII.—Water-supply.—Sections 239, 240.)

by sub-section (1); but such owner shall be entitled to recover rateably from the several occupiers, according to the rent paid by each, any amount so paid.

(4) Every incoming or outgoing occupier of any metered premises shall, at least three clear days before entering into the occupation of or vacating such premises, as the case may be, cause a written notice to be served upon the Corporation, stating the date on which he intends to occupy or vacate the premises and requiring the Executive Officer to cause the meter to be read for the determination of the liability, if any, for any excess consumption of filtered water on the date of such occupation or the date of such vacation of the premises, as the case may be.

(5) Upon receipt of such notice the Executive Officer shall cause the meter to be read and furnish such occupier with a statement of such meter reading.

(6) The outgoing occupier shall ordinarily be liable to pay for any excess supplied up to the date of his vacating the premises;

and the incoming occupier's liability for any excess consumption of filtered water shall ordinarily accrue from the commencement of his occupation:

Provided that where no written notice is delivered to the Corporation under sub-section (4), the Corporation shall be entitled to realise from such incoming occupier the full proportionate amount of the charges for excess water consumed, on the basis of the next quarterly or other reading of the meter made after the occupation of the incoming occupier, or such less amount as the Corporation may think fit, regard being had to the number of days in any quarter during which the premises were occupied by such incoming occupier, the number of inmates during that period and the amount of free allowance to which such occupier may be entitled under section 223.

239. Whenever water is supplied under this chapter through a meter, it shall be presumed that the quantity indicated by the meter has been consumed until the contrary is proved.

240. The use, maintenance and testing of meters provided under this chapter, and the calculation of the amount payable under section 238 in case of the incorrectness of any such meter, shall be in accordance with, and subject to, the rules contained in Schedule XIV.

Presumption as to correctness of meter.

Rules as to meters.

of 1923.]

(Part V—Chapter XVII—Water-supply.—Sections
241, 242)Occupier of
premises to be
primarily liable
for certain
offences relating
to water supply

241. (1) If it be shown that an offence against any provision of this chapter, or against any rule or by-law made under this Act relating to water-supply, has occurred in any premises connected with the municipal water-supply, it shall, subject to the provisions of sub-section (2), be presumed, unless and until the contrary is proved, that such offence has been committed by the occupier of the said premises

(2) The existence of artificial means for—

- (a) altering the index to any meter provided under this chapter for measuring filtered water, or
- (b) preventing any such meter from duly registering the quantity of water supplied, or
- (c) abstracting or using water before it has been registered by such meter,

shall, where the meter is under the custody or control of the consumer of such water, be *prima facie* evidence that the consumer has fraudulently caused such alteration, prevention, abstraction or use.

*Supply of water for use beyond Calcutta.*Supply of
filtered water to
adjacent municipa-
lities and
cantonnments

242. (1) The Corporation may at any time, on receiving an application from the municipality or cantonment concerned, direct that such quantity of filtered water *per diem* as may be determined by the Corporation shall be delivered into reservoirs or pipes placed in—

- (a) any of the following municipalities or cantonnments, namely —

Municipalities

Buanagar,	|	Khairah,
Garuli,	|	South Dum-Dum,
Kamahati,	|	South Suburban,
North Barrackpur,		Titagarh
North Dum-Dum,		Tollyganj,
Pamhati,		

Cantonments

Barrackpur,		Dum-Dum or
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(Part V.—Chapter XVII.—Water-supply.—Sections
243—245.)

- (b) any municipality which is hereafter formed by subdividing any municipality mentioned in clause (a), or by uniting into one municipality any of the municipalities mentioned in that clause ;

and that for all water so delivered payment shall be made at such rate, not being less than the cost (including loan charges, allowance for depreciation of plant and other charges) to the Corporation, as may from time to time be determined by the Corporation.

(2) An appeal shall lie to the Local Government from any refusal by the Corporation to give a direction under sub-section (1), or from any direction given by the Corporation under that sub-section.

(3) Before deciding any such appeal, the Local Government shall consider any representation made by the Corporation with reference thereto.

(4) No order made on any such appeal shall direct the delivery of water at a lower rate of payment than the cost to the Corporation.

(5) Every order made by the Local Government on any such appeal shall be final.

243. (1) The Corporation may, in their discretion, allow any person not residing in Calcutta to take or be supplied with water on such terms as they may from time to time prescribe.

(2) No person shall, without the written permission of the Corporation, take or cause to be taken for use without Calcutta water supplied under this chapter :

Provided that this sub-section shall not apply to water taken by travellers for use on a journey.

Supplemental provisions.

244. The Corporation shall have the same powers and be subject to the same restrictions for carrying water-mains in or without Calcutta as they have and are subject to for carrying drains in or without Calcutta.

245. (1) Notwithstanding anything contained in this chapter, the Corporation may cut off the connection between any water-works of the Corporation and any premises to which water is supplied from such works, or may turn off such supply, in any of the following cases, namely :—

- (a) if the premises are unoccupied ;

Supply of water to persons residing out of Calcutta or for use without Calcutta.

General powers of the Corporation in regard to water-mains.

Power to Corporation to cut off or turn off supply of water to premises.

of 1923.]

(Part V — Chapter XVII — Water supply — Section
245)

- (b) if, after receipt of a written notice from the Corporation requiring him to refrain from so doing, the owner or occupier of the premises continues to use the water or to permit the same to be used, in contravention of this Act or of any rule or by-law made thereunder,
- (c) if the occupier of the premises contravenes section 220, sub section (2), or section 243, sub section (2),
- (d) if the occupier refuses to admit any municipal officer or servant duly authorized in that behalf into the premises for the purpose of making any inspection under this chapter or under any rule or by-law relating to water-supply made under this Act, or prevents such municipal officer or servant from making such inspection,
- (e) if the owner or occupier of the premises wilfully or negligently injures or damages his meter or any pipe or tap conveying water from any works of the Corporation,
- (f) if any pipes, taps, works or fittings connected with the supply of water to the premises be found, on examination by the Corporation, to be out of repair to such an extent as to cause so serious a waste of water that, in the opinion of the Executive Officer, immediate prevention is necessary,
- (g) if the use of the premises for human habitation has been prohibited under section 381, from the date from which the premises are to be vacated under the order of the Magistrate;
- (h) if there is any water-pipe situated within the premises to which no tap or other efficient means of turning the water off is attached, or
- (i) if by reason of a leak in the service pipe or fitting, damage is caused to the public

(Part V.—Chapter—XVII.—Water-supply.—Sections
246, 247.)

street and immediate prevention is necessary :

Provided as follows :—

(i) water supplied for flushing privies or urinals shall not be cut off or turned off :

(ii) water shall not be cut off or turned off in any case referred to in clause (g), unless written notice of not less than forty-eight hours has been given to the occupier of the premises.

(2) The expense of cutting off the connection or of turning off the water and of restoring the same, as determined by the Corporation in any case referred to in sub-section (1), shall be paid, in the case of a *buster*, by the owner of the premises, and in any other case by the owner or occupier of the premises :

Provided that no charge for such expense shall be made in the cases mentioned in clause (a) and clause (g) of the said sub-section.

(3) No action taken under or in pursuance of this section shall relieve any person from any penalties or liabilities which he may otherwise have incurred.

Filling up wells
when water
supplied.

246. Whenever a supply of filtered and unfiltered water has been provided in any street, the Corporation may, by written notice, require the owner of any well situated in premises which are supplied from the mains to fill it up with suitable materials.

Laying of pipes
or construction of
aqueducts beyond
Calcutta for
bringing water
into Calcutta.

247. (1) When a plan for laying pipes or constructing aqueducts for bringing water into Calcutta from any place without Calcutta has been approved by the Local Government, the Corporation may, in the execution and for the purposes of the work, exercise, throughout the line of country without Calcutta through which such pipes or aqueducts are to run, all the powers which they might exercise under this Act or under any rule or by-law made thereunder if the said pipes or aqueducts were to run in Calcutta.

(2) The Magistrate of any district without Calcutta through which the said pipes or aqueducts are to run may exercise, in respect of such work, the same powers and jurisdiction as a Magistrate may, under this Act, exercise in respect of any work executed by the Corporation in Calcutta.

of 1923.]

(Part V—Chapter XVIII—Drains, privies and other receptacles for filth—Sections 284—251.)

CHAPTER XVIII

DRAINS, PRIVIES AND OTHER RECEPTACLES FOR FILTH

Proprietary rights of the Corporation in respect of drains

248. (1) All public drains, and all drains in, alongside or under any public street, whether made at the charge of the Municipal Fund or otherwise, and all works, materials and things appertaining thereto shall vest in the Corporation.

Public drains, and drains in, alongside or under public streets, to vest in Corporation

(2) For the purposes of enlarging, deepening or otherwise repairing or so much of the sub-so as may be necessary for as deemed to vest in the Corporation

drain

drain

also be

249. All drains and ventilation-shafts, pipes and other appliances and fittings connected with drainage-works constructed, erected or set up at the charge of the Municipal Fund in or upon premises not belonging to the Corporation, whether—

Drains, etc., constructed, etc. at charge of Municipal Fund on private premises to vest in Corporation

(a) before or after the commencement of this Act, and

(b) for the use of the owner or occupier of such premises or not,

shall, unless the Corporation has otherwise determined, or do at any time otherwise determine, vest and be deemed always to have vested in the Corporation

Duties of the Corporation in respect of maintenance and construction of drains

250. The Corporation shall keep all municipal drains in repair, and shall cause to be made such drains as may be necessary for effectually draining Calcutta

Repair and provision of municipal drains by Corporation

251. (1) The Corporation shall provide a safe and sufficient outfall, in or without Calcutta, for the proper discharge of the storm-water and sewage of Calcutta in such manner as not to cause any nuisance whether by flooding any part of Calcutta or of the country surrounding the outfall or in any other way.

Provision by Corporation for outfall for discharge of storm water and sewage

(2) The place of such outfall and the method of disposing of sewage shall be subject to the sanction

(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Section 252.)

of the Local Government, who may from time to time direct such alterations to be made as they may consider necessary.

(3) If the outfall deteriorates, by the decay of existing river channels or otherwise, the Local Government may require such order to be taken, and such additions or alterations to be made to or in the outfall works at, the charge of the Municipal Fund, as they may consider necessary to ensure a safe and sufficient outfall.

Municipal drains.

252. (1) The Corporation may—

- (a) enlarge, arch over, or otherwise improve any municipal drain, or
- (b) discontinue, close up or destroy any municipal drain which has, in their opinion, become useless or unnecessary, or
- (c) carry any municipal drain—
 - (i) through, across or under any street or any place laid out as, or intended for, a street, and
 - (ii) (after giving reasonable notice in writing to the owner and occupier) into, through or under any land whatsoever or under any building

in Calcutta or, for the purpose of outfall or distribution of sewage, without Calcutta, or

- (d) construct any new municipal drain in the place of an existing drain in any land wherein any municipal drain has been already lawfully constructed, or
- (e) repair or alter any municipal drain so constructed :

Provided that—

- (i) if, in the exercise of any of the powers conferred by this section, it is proposed to demolish any house-drain, a written notice shall be served upon the owner of such drain; and

Power to Corporation to improve, discontinue, etc., municipal drains, etc.

of 1923.]

(Part V—Chapter XVIII—Drains, privies and other receptacles for filth—Sections 253—255)

(1) If, by reason of anything done under this section, any person is deprived of the lawful use of any drain, the Corporation shall, as soon as practicable, provide for him some other drain as effectual as the one which has been discontinued, closed up or destroyed

(2) In the exercise of any power conferred by this section, the Corporation shall create the least practicable nuisance and do as little damage as may be, and shall pay compensation to any person who sustains damage by the exercise of such power

253. (1) Without the written permission of the Corporation—

(a) no private street shall be constructed and

(b) no wall or other structure shall be newly erected

over any municipal drain

(2) If any private street be so constructed, or if any wall or other structure be so erected, without such permission, the Corporation may remove or otherwise deal with the same as they may think fit,

and the expenses incurred by the Corporation in so doing shall, in the discretion of the Corporation, be paid by the owner of such private street, wall or other structure, or by the person offending.

254. (1) Any local authority without Calcutta may cause any drain under its control to communicate with any municipal drain, on such terms and conditions as may be agreed on between such local authority and the Corporation

(2) If in any case terms and conditions cannot be agreed upon under sub-section (1), such local authority shall refer the matter to the Local Government, whose decision shall be final

255. (1) When a plan for making municipal drains to communicate with, or empty themselves into, any public drain, lake, stream, canal or water-course without Calcutta has been approved by the Local Government, the Corporation may, in the execution and for the purposes of the work, exercise, throughout the line of country without Calcutta, through which the said drains are to run all the powers which they might exercise under this Act if the said drains were to run entirely in Calcutta.

Private streets
etc, not to be,
constructed over
municipal drain
without permis-
sion

Communication
of drain under
control of local
authority beyond
Calcutta with
municipal drain

Communication
of municipal
drains with
drains lakes, etc
beyond Calcutta

(*Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Sections 256—258.*)

(2) The Magistrate of any district without Calcutta, through which the said drains are to run, may exercise, in respect of the said work, the same powers and jurisdiction as a Magistrate may, under this Act, exercise in respect of any work executed by the Corporation entirely in Calcutta.

Drainage of premises.

Right of owner or occupier of premises to empty his house-drain into municipal drain.

256. The owner or occupier of any premises shall be entitled to cause his house-drain to empty into a municipal drain, provided that, before doing so, he—

(a) obtains the written permission of the Corporation in accordance with the provisions of Schedule XV, and

(b) complies with such conditions as the Corporation may prescribe as to the mode in which, and the superintendence under which, communications between house-drains and municipal drains are to be made.

Connections with municipal drains not to be made except in conformity with section 256.

257. (1) No person shall, without complying with the provisions of section 256, make, or cause to be made, any connection of a house-drain with a municipal drain.

(2) The Corporation may close, demolish, alter or re-make any such connection made in contravention of sub-section (1);

and the expenses incurred in so doing shall, in the discretion of the Corporation, be paid by the owner or occupier of the premises for the benefit of which such connection was made, or by the person offending.

Compulsory connection of house-drains with each other.

258. When a house-drain belonging to one or more persons has been laid in any private street which is common to more than one premises, and the Corporation consider it desirable that any other premises should be drained into such drain,

they may, by written notice, require the owner of such premises to connect his house-drain with such first-mentioned drain;

and the owners of such first-mentioned drain shall thereupon be bound to permit such connection to be made:

Provided that no such connection shall be made—

(a) except upon such terms as may be prescribed by the Corporation, and

(b) until any payment which may be directed by the Corporation has been duly made,

of 1923.]

(Part V—Chapter XVIII—Drains, privies and other receptacles for filth—Sections 259, 260)

259. (1) If it appears to the Corporation that any group or block of premises may be drained more economically or advantageously in combination than separately,

Power to Corporation to drain group or block of premises by a combined operation

and a municipal sewer of sufficient size already exists or is about to be constructed, within one hundred feet of any part of such group or block of premises,

the Corporation may cause such group or block of premises to be drained by a combined operation

(2) The expenses incurred in carrying out any work under sub-section (1) in respect of any group or block of premises shall be paid by the owners of such premises in such proportions as the Corporation may think fit

(3) Not less than fifteen days before any such work is commenced, the Corporation shall give to each such owner—

(a) written notice of the nature of the proposed work, and

(b) an estimate of the expenses to be incurred in respect thereof and of the proportion of such expenses payable by him

260. When any premises are, in the opinion of the Corporation, without sufficient means of effectual drainage, and a municipal drain or some place approved by them for the discharge of drainage is situated at a distance not exceeding one hundred feet from any part of the said premises, they may, by written notice, require the owner of the said premises—

Power to Corporation to enforce drainage of undrained premises situated within one hundred feet of a municipal drain

(a) to make a house-drain emptying into such municipal drain or place,

(b) to provide and set up all such appliances and fittings as may appear to the Corporation necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said premises and of effectually flushing such house-drain and every fixture connected therewith; or

(c) to remove any existing house-drain, or other appliance or thing used or intended to be used for drainage, which is injurious to health

(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Sections 261, 262.)

Power to Corporation to enforce drainage of undrained premises in other cases.

261. When in any case not provided for in section 260 any premises are, in the opinion of the Corporation, without sufficient means of effectual drainage, they may, by written notice, require the owner of such premises to make a house-drain communicating with the nearest municipal drain :

Provided as follows—

- (a) the cost of constructing that portion of the house-drain so made, which is situate more than one hundred feet from the said premises, shall be paid out of the Municipal Fund; and
- (b) if, in the opinion of the Corporation, there is no municipal drain within a reasonable distance of such premises, they may, by written notice, require the owner of the premises to construct—
 - (i) a closed cesspool of such material, size and description, and in such position, as they may prescribe, and
 - (ii) a house-drain communicating with such closed cesspool.

Power to Corporation to close or limit the use of house-drain in certain cases.

262. When a house-drain connecting any premises with a municipal drain is sufficient for the effectual drainage of such premises and is otherwise unobjectionable, but is not, in the opinion of the Corporation, adapted to the general drainage system of Calcutta, they may, by written notice addressed to the owner of the premises, direct—

- (a) that such house-drain be closed, discontinued or destroyed and that any work necessary for that purpose be done ; or
- (b) that such house-drain shall, from such date as they prescribe in this behalf, be used for sewage, offensive matter and polluted water only or for rain-water and unpolluted sub-soil water only :

Provided as follows—

(i) no house-drain may be closed, discontinued or destroyed by the Corporation under clause (a) except on condition of their providing another house-drain equally effectual for the drainage of the premises and communicating with any municipal drain which they think fit ; and

of 1923.]

(Part V — Chapter XVIII — Drains, privies and other receptacles for filth — Sections 263—265)

(1) the expenses of the construction of any drain so provided by the Corporation and of any work done under clause (a) may be paid out of the Municipal Fund

263. (1) Whenever it is provided in this chapter that steps shall or may be taken for the effectual drainage of any premises, the Corporation may, by written notice require the owner to construct—

Power to Corporation to require that sewage and rain water drains be distinct in any premises

(a) one house drain for sewage, offensive matter and polluted water and

(b) another and entirely separate house drain for rain-water or unpolluted sub-soil water, or for both rain-water and unpolluted sub soil water

each emptying into separate municipal drains or other suitable places

(2) Any requisition made by the Corporation under sub section (1) may comprise any detail specified in clause (b) of section 260

264. For the purpose of efficiently draining any land or building, the Corporation may, by written notice, require the owner of any court-yard, alley, passage or open space—

Power to Corporation to require paving maintaining and raising level of court yard, etc

(a) to pave the same with such material and in such manner as may be approved of by the Corporation, and to keep such paving in proper repair, or

(b) to raise the level of such court-yard, alley, passage or open space

265. (1) The Corporation may prescribe such drains for the drainage of huts as the circumstances of the locality and the position of the nearest municipal drain may render practicable.

Drains for huts

(2) If the Corporation consider that a new drain should be constructed for the benefit of the occupants of any hut, they may, by written notice, require the owner of the land on which such hut stands to construct such drain

and such owner shall construct such drain, and shall maintain and from time to time cleanse and repair it, to the satisfaction of the Corporation

(3) The powers conferred by this section shall be deemed to be in addition to, and not in derogation of, the powers conferred by section 260 and section 261

(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Sections 272—274.).

direct that separate privy or urinal accommodation need not be provided on or for such other premises :

Provided also that the Corporation may, if they are of opinion that there is sufficient public latrine accommodation available for the persons occupying the premises, direct that separate privy or urinal accommodation need not be provided for such premises.

Power to Corporation to require provision of privies and urinals for premises used as a market, etc.

272. If it appears to the Corporation that any premises are, or are intended to be, used as a market, railway-station, dock, wharf or other place of public resort, or as a place for the employment of persons exceeding twenty in number, in any manufacture, trade or business, or as workmen or labourers, they may, by written notice, require the owner of such premises to provide such service or connected-privies and urinals for the separate use of persons of each sex as they may prescribe.

Rules for construction, etc., of privies and urinals.

273. Privies and urinals, and all appurtenances thereof, shall be constructed, maintained, repaired, altered and regulated in accordance with—

(a) the rules contained in Schedule XV and any by-laws made under this Act relating to privies and urinals and the appurtenances thereof, and

(b) requisitions made under such rules and by-laws.

Cost of repair of privy payable out of Municipal Fund in certain cases.

274. (1) If, within three years after any privy has been provided or altered with the sanction or on the requisition of any municipal authority duly empowered in that behalf, or of the Corporation under this Act, a requisition is made by the Corporation for the rebuilding or alteration of such privy, the expenses of such rebuilding or alteration shall be paid out of the Municipal Fund.

(2) When any notice has been issued under section 271 or Schedule XV in respect of any privy, urinal or group of privies or urinals and the Corporation are satisfied that the owner of the land or building on or in which any such privy or urinal is situated is from poverty unable to pay the whole or part of the expenses of carrying out the work required by the notice they may direct that such expenses, or such portion thereof, as they think fit, be paid out of the Municipal Fund.

of 1923.]

(Part V—Chapter XVIII—Drains, privies and other receptacles for filth—Sections 275—277)

Inspection of drains, house-gullies, privies, urinals, and bathing and washing places

275. All house-drains, ventilation shafts and pipes cesspools, house gullies, privies, urinals, and bathing and washing places which do not belong to the Corporation, or which have been constructed, erected or set up at the charge of the Municipal Fund on premises not belonging to them, for the use or benefit of the owner or occupier of the said premises, shall be open to inspection and examination by them

House drains, etc not belonging to the Corporation to be subject to inspection and examination

276. For the purpose of any inspection and examination under section 275, the Corporation may cause the ground or any portion of any house-drain or other work exterior to a building, or any portion of a building which they may think fit, to be opened, broken up or removed

Power to Corporation to open ground etc, for purposes of such inspection and examination

Provided that in the prosecution of any such inspection and examination as little damage is possible shall be done

277. (1) If, upon any inspection and examination under section 275 it is found that the house drain, ventilation-shaft or pipe, cesspool, house-gully privy, urinal, or bathing or washing place examined is in proper order and condition, and that none of the provisions of this chapter or of Schedule XV, or of any by-law made under this Act have been contravened in respect of the construction or maintenance thereof, and that no encroachment has been made thereupon, the ground or the portion of any building, house-drain or other work (if any) opened, broken up or removed, for the purpose of such inspection and examination shall be filled in, re-instated and made good by the Corporation

Expenses of inspection and examination to be paid by whom

(2) But if, upon any such inspection and examination, it is found that any house-drain, ventilation-shaft or pipe, cesspool, house-gully, privy, urinal, or bathing or washing place so examined is not in good order or condition, or has been repaired, changed, altered, encroached upon or (except when the same has been constructed by or under the order of a municipal authority duly empowered in that behalf, or of the Corporation under this Act) constructed in contravention of any of the provisions of this chapter, or of Schedule XV, or of any by-law made under this Act, or of any enactment at the time in force,

the expenses of the inspection and examination shall if the Corporation so direct, be paid by the

(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Sections 278, 279.)

owner of the premises, and the said owner shall at his own cost fill in, re-instate and make good the ground, or the portion of any building, house-drain or other work opened, broken up or removed for the purpose of such inspection and examination :

Provided that the amount recoverable as the expenses of such inspection and examination shall not in any case exceed ten rupees.

Power to Corporation to require repairs, etc., to be made.

278. (1) When the result of any inspection and examination under this chapter is as described in section 277, sub-section (2), the Corporation may, by written notice, require the owner of the premises in which the house-drain, ventilation-shaft or pipe, cess-pool, house-gully, privy, urinal, or bathing or washing place referred to in the said sub-section is situate—

(a) to close or remove the same or any encroachment thereupon ; or

(b) to renew, repair, cover, re-cover, trap, ventilate, pave and pitch, flush, cleanse or take such other order with the same as the Corporation may think fit to direct, and to fill in, re-instate and make good the ground or the portion of any building, house-drain or other work opened, broken up or removed for the purpose of the said inspection and examination.

(2) In any such case the Corporation may, forthwith and without notice, stop up or demolish any house-drain by which sewage, offensive matter or polluted water is carried through, from, into or upon any premises in contravention of any of the provisions of this chapter or of Schedule XV, or of any by-law made under this Act ;

and may also, forthwith and without notice, clear, cleanse or open out any house-drain which is choked, blocked or in any way obstructed ;

and all expenses incurred by the Corporation in so doing shall, in their discretion, be paid by the owner or the occupier of the premises.

Position of cesspools and other filth receptacles.

Position of cesspools.

279. (1) No person shall construct a cesspool—

(a) beneath any part of any building, or within fifty feet of any tank, reservoir, water-course or well ; or

of 1923.]

(Part V—Chapter XVIII—Drains, privies and other receptacles for filth.—Sections 280—282)

(b) upon any site or in any position in Calcutta which has not been approved in writing by the Corporation, or

(c) upon any site or in any position without Calcutta, which has not been so approved and is situated within three hundred feet of any reservoir used for the storage of filtered water to be supplied to Calcutta.

(2) The Corporation may at any time, by written notice, require any person within whose premises any cesspool is constructed in contravention of sub-section (1), to remove such cesspool or to fill it up with such material as may be approved by them.

280. (1) No person shall construct any house-drain, service-pit, urinal or other receptacle for sewage or offensive matter, not being a cesspool, within fifty feet of any tank, well or water-course or any reservoir for the storage of water, unless he first satisfies the Corporation that he will take such order therewith as will prevent any risk of sewage or offensive matter passing by percolation or otherwise into such tank, well, water-course or reservoir.

No filth receptacle to be situated within fifty feet of tank, well, water-course or reservoir

(2) The Corporation may at any time, by written notice, require any person within whose premises there is situated, within fifty feet of any tank, well, water-course or reservoir for the storage of water, any receptacle mentioned or referred to in sub-section (1), to remove such receptacle.

(3) This section shall also apply to any such receptacle, without Calcutta, which is constructed or situated within fifty feet of any reservoir used for the storage of filtered water to be supplied to Calcutta.

General powers and duties of the Corporation

281. For the purpose of ventilating any drain or cesspool, whether vested in the Corporation or not, they may erect upon any premises or affix to the outside of any building, or to any tree, any such shaft or pipe as may appear to them to be necessary.

Power to Corporation to affix shafts or pipes for ventilation of drain or cesspool

282. When a notice has been issued under this chapter or Schedule XV, requiring any person to construct or alter a drain the Corporation may themselves cause to be constructed or altered so much of the drain as runs through, over or under any municipal drain, public aqueduct or public street, and the expenses thereby incurred shall be paid by the owner of the drain.

Power to Corporation to execute work when municipal drains etc., affected

(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Sections 283—285.)

Power to Corporation to provide new drains, etc., in executing works.

283. (1) In executing any drainage-works under this chapter, the Corporation shall provide and make, out of the Municipal Fund, a sufficient number of convenient ways, water-courses and drains in substitution for any that may be interrupted, injured or rendered useless by reason of the execution of such works :

and, if any difference arises between the Corporation and the persons affected, the same shall be settled by the Court of Small Causes having jurisdiction in the place where such works are executed, on application to be made to it for this purpose.

(2) The decision of the said Court of Small Causes shall, subject to the provisions of section 6 of the Presidency Small Cause Courts Act, 1882,¹ or section 25 of the Provincial Small Cause Courts Act, 1887,² as the case may be, be final.

X
II

General power to Corporation in respect of house-drains, cesspools, privies and urinals.

284. Subject to the provisions of this chapter and of Schedule XV,—

(a) all house-drains, as well within as without the premises to which they belong, all cesspools and all privies and urinals shall, as regards their site, construction, materials and dimensions and the arrangements for flushing the same, be under the survey and control of the Corporation, and

(b) the Corporation may, by written notice, require the owner of any premises in which any house-drain, cesspool, privy or urinal is situated, to alter, pave, repair or ventilate the same or to keep it in such a state of repair as to admit of its being sufficiently cleaned, or to supply it with water, or connect it with a sewer, or stop up or demolish it.

285. When, under the provisions of this chapter or of Schedule XV, the Corporation may require the owner of any premises to carry out any work, they may, if they consider it desirable so to do, require the occupier of the said premises to carry out such work, and the occupier shall be bound to comply with the requisition :

Provided that, except in the case of a special agreement to the contrary, such occupier may deduct the amount of the expenses reasonably incurred or paid by him in respect of such work from the rent payable to the owner, or may recover the same from him in any court of competent jurisdiction.

Power to Corporation to require occupier to carry out work in place of owner

¹ General Acts, Vol. III.

² General Acts, Vol. IV.

of 1923.]

(Part V—Chapter XVIII—Drains, privies and other receptacles for filth—Sections 286, 287)

286. (1) When, under the provisions of this chapter or of Schedule XV any person may be required or is liable to execute any work, the Corporation may, if it appears to them to be expedient and necessary so to do themselves cause such work to be executed, after giving such person an opportunity of executing the same within forty eight hours of the receipt of a notice to this effect

Power to Corporation to execute work after giving person liable notice

(2) The expenses of any work so executed shall be payable by the said person, unless the Corporation direct the payment of such expenses out of the Municipal Fund

General prohibitions

287. No person shall,—

Prohibition of certain acts

(a) in contravention of any of the provisions of this chapter or of Schedule XV, or of any notice issued or direction given thereunder, or without the written permission of the Corporation,

in any way alter the fixing, disposition or position of, or construct, erect, set up, renew, rebuild, remove, obstruct, stop up, destroy or change,

any drain, ventilation-shaft or pipe, cesspool, privy, urinal, or bathing or washing place or any trap, covering or other fitting or appliance connected therewith, or,

(b) without the written permission of the Corporation, renew, rebuild or unstop any drain, ventilation-shaft or pipe, cesspool, privy, urinal, or bathing or washing place or any fitting or appliance, which has been, or has been ordered to be, discontinued, demolished or stopped up under any of the said provisions, or,

(c) without the written permission of the Corporation, make any encroachment upon, or in any way injure or cause or permit to be injured, any drain, cesspool, house-gully, privy, urinal, or bathing or washing place, or

(d) drop, pass or place, or cause or permit to be dropped, passed or placed, into or in any drain, any brick, stone, earth or ashes, or any substance or matter, by which or by reason of the amount of which such drain is likely to be obstructed, or

(Part V.—Chapter XVIII.—Drains, privies and other receptacles for filth.—Chapter XIX.—Licensed plumbers.—Sections 288—290.)

- (e) pass, or permit or cause to be passed, into any drain provided for a particular purpose any matter or liquid for the conveyance of which such drain was not provided; or
- (f) cause or suffer to be discharged into any drain from any factory, bakehouse, distillery, workshop or workplace, or from any building or place in which steam, water or mechanical power is employed, any hot water, steam or fumes, or trade effluents or any liquid which would prejudicially affect the drain or the disposal by sale or otherwise of the sewage conveyed along the drain, or which would, from its temperature or otherwise, be likely to create a nuisance.

CHAPTER XIX.

LICENSED PLUMBERS.

Power to Corporation to license plumbers.

288. (1) The Corporation may from time to time grant to any person they think fit a license to act as a plumber for the purposes of Chapter XVII or Chapter XVIII.

(2) Every such license shall be for a renewable period of three years.

Rules for guidance of plumbers.

289. The Corporation may make rules for the guidance of licensed plumbers, and a copy of all such rules, for the time being in force, shall be written on the back of every license granted under section 288.

Powers and duties of plumber licensed for drainage works.

290. A plumber holding a license for the purposes of Chapter XVIII—

- (a) may prepare, for the approval of the Corporation, plans and estimates for the drainage of premises;
- (b) may, with the sanction of the Corporation, carry out drainage works in accordance with this Act and the rules or by-laws made thereunder;
- (c) shall furnish the Corporation with plans of all drainage works carried out under clause (b);
- (d) may carry out any necessary repairs to municipal drainage works;

of 1923.]

(Part V—Chapter XIX—Licensed plumbers—
Sections 291—293)

(e) may, when the owner or occupier of any premises has failed to comply with a notice requiring such owner or occupier to provide for the effectual drainage of such premises and if so directed by an order from the Corporation, carry out such works as may be necessary for the effectual drainage of the said premises, and

(f) shall when any works have been executed under clause (e), furnish the Corporation with plans of the same and with a statement of the cost of such works

291. (1) No person other than a licensed plumber shall—

Prohibition of
work by other
than licensed
plumber

(a) execute any work in connection with the laying on of water from any mains of the Corporation to any land or building, or in connection with the extension of such mains or the supply of additional fittings after water has been so laid on, or

(b) make any underground drain communicating with the public sewers, or

(c) do any work in connection with such drain

(2) No owner or occupier of any land or building shall cause or allow any work referred to in sub-section (1) to be executed by any person other than a licensed plumber, and such work shall be liable to be dismantled at the discretion of the Corporation without prejudice to the right of the Corporation to prosecute under this Act the owner or occupier, as the case may be

292. (1) The Corporation may from time to time prescribe the charges to be paid to licensed plumbers for any work done by them under or for any of the purposes of Chapter XVII or Chapter XVIII.

Power to Cor-
poration to pre-
scribe remuneration
of licensed plum-
bers

(2) No licensed plumber shall, for any work referred to in sub-section (1), demand or receive more than the charge prescribed therefor under that sub-section

293. The Corporation shall provide for—

(a) the exercise of an adequate control over all licensed plumbers

Control over
licensed plumbers
and their work
and charges

(b) the inspection of all work carried out by them, and

(Part V.—Chapter XLX.—Licensed plumbers,—
Chapter XX.—Streets and public places.—
Sections 294—296.)

(c) the hearing and disposal of complaints made by owners or occupiers of premises with regard to the quality of the work done by, the materials used by, any delay in the execution of the work by, or the charges made by, licensed plumbers.

Prohibitions
and suspension of
cancellation of
license.

294. (1) No licensed plumber shall infringe any of the rules made under section 289, or execute carelessly or negligently any work under this Act or under any rules or by-laws made thereunder, or make use of bad materials, appliances or fittings.

(2) If any licensed plumber contravenes subsection (1), his license may be suspended or cancelled whether he be prosecuted under this Act or not.

CHAPTER XX.

STREETS AND PUBLIC PLACES.

Proprietary rights of the Corporation.

Public streets
and squares vested
in the Corporation
and power to the Corporation
to name such
streets and
squares.

295. (1) All public streets and squares (not being the property and kept under the control of the Government or the Commissioners for the Port of Calcutta or the Board of Trustees for the Improvement of Calcutta), including the soil, sub-soil, and the side-drains, footways, pavements, stones and other materials of such streets and squares, and all erections, materials, implements and other things provided for such streets or squares shall vest in and belong to the Corporation.

(2) The Corporation may, from time to time, determine the name by which any public street or square is to be known.

Maintenance, repair, protection and regulation of streets and public places.

Maintenance and
repair of public
streets by Corporation.

296. The Corporation shall cause the public streets vested in them to be maintained and repaired, and for those purposes may do all things necessary for the public safety or convenience, including the construction and maintenance of bridges, causeways and culverts.

of 1923.]

(Part V.—Chapter XX—Streets and public places —
Sections 297—300)

297. The Corporation shall, so far as they may consider it necessary to do so for the public convenience, cause such public streets, squares and gardens, as they may from time to time determine, to be watered, oiled or otherwise treated in a suitable manner, and for that purpose may provide such animals, water-carts, materials and other apparatus as they may think necessary

Watering etc
of public street
squares and
gardens

298. Streets and public places shall be maintained, repaired, protected and otherwise regulated in accordance with the rules contained in Schedule XVI.

Rules for main-
taining repairing
etc streets and
public places

299. (1) When any verandah, platform or other similar structure or any fixture attached to a building so as to form part of the building, whether erected before or after the commencement of this Act, causes a projection, encroachment or obstruction over or on any public street or any land vested in the Corporation, they may, by written notice, require the owner or occupier of the building to remove or alter such structure or fixture

Lower to Cor-
poration to
remove or alter
verandah, etc., or
fixtures attached
to building which
project etc, over
public street or
land

(2) If the expense of removing or altering any such structure or fixture is paid by the occupier of the building, in any case in which the same was not erected by himself, he shall be entitled to deduct any reasonable expense incurred for the purposes of such removal or alteration from the rent payable by him to the owner of the building

(3) If the owner or occupier of the building proves that any such structure or fixture was erected before the first day of June 1863, or that it was erected on or after that day with the consent of any municipal authority duly empowered in that behalf, the Corporation shall, after such structure or fixture has been removed, make reasonable compensation to every person who suffers damage by the removal or alteration thereof

300. (1) The Corporation may, after giving notice to him, require any person to remove any wall and may of their own motion remove any fence, rail, post, platform, or other obstruction, projection or encroachment (not being a portion of a building or fixture referred to in section 299) which has been erected or set up, and any materials or goods which have been deposited, in a public street or in or over any drain or aqueduct in a public street, whether the offender be prosecuted under this Act or not,

Lower to Cor-
poration to cause
wall to be re-
moved or to
remove other
obstructions in
public street

and the offender shall be liable for the payment of the expense of such removal

(Part V.—Chapter XLV.—Licensed plumbers,—
Chapter XX.—Streets and public places.—
Sections 294—296.)

(c) the hearing and disposal of complaints made by owners or occupiers of premises with regard to the quality of the work done by, the materials used by, any delay in the execution of the work by, or the charges made by, licensed plumbers.

Prohibitions
and suspension or
cancellation of
license.

294. (1) No licensed plumber shall infringe any of the rules made under section 289, or execute carelessly or negligently any work under this Act or under any rules or by-laws made thereunder, or make use of bad materials, appliances or fittings.

(2) If any licensed plumber contravenes subsection (1), his license may be suspended or cancelled whether he be prosecuted under this Act or not.

CHAPTER XX.

STREETS AND PUBLIC PLACES.

Proprietary rights of the Corporation.

Public streets
and squares vested in the Corporation and power to the Corporation to name such streets and squares.

295. (1) All public streets and squares (not being the property and kept under the control of the Government or the Commissioners for the Port of Calcutta or the Board of Trustees for the Improvement of Calcutta), including the soil, sub-soil, and the side-drains, footways, pavements, stones and other materials of such streets and squares, and all erections, materials, implements and other things provided for such streets or squares shall vest in and belong to the Corporation.

(2) The Corporation may, from time to time, determine the name by which any public street or square is to be known.

Maintenance, repair, protection and regulation of streets and public places.

Maintenance and repair of public streets by Corporation.

296. The Corporation shall cause the public streets vested in them to be maintained and repaired, and for those purposes may do all things necessary for the public safety or convenience, including the construction and maintenance of bridges, causeways and culverts.

of 1923.]

(Part V.—Chapter XX—Streets and public places—
Sections 297—300)

297. The Corporation shall, so far as they may consider it necessary to do so for the public convenience, cause such public streets, squares and gardens, as they may from time to time determine, to be watered, oiled or otherwise treated in a suitable manner, and for that purpose may provide such animals, water-carts, materials and other apparatus as they may think necessary

Watering, etc,
of public streets,
squares and
gardens

298. Streets and public places shall be maintained, repaired, protected and otherwise regulated in accordance with the rules contained in Schedule XVI

Rules for main-
taining, repairing,
etc, streets and
public places

299. (1) When any verandah, platform or other similar structure or any fixture attached to a building so as to form part of the building, whether erected before or after the commencement of this Act, causes a projection, encroachment or obstruction over or on any public street or any land vested in the Corporation, they may, by written notice, require the owner or occupier of the building to remove or alter such structure or fixture

Power to Cor-
poration to
remove or alter
verandah, etc, or
fixtures attached
to building which
project, etc, over
public street or
land

(2) If the expense of removing or altering any such structure or fixture is paid by the occupier of the building, in any case in which the same was not erected by himself, he shall be entitled to deduct any reasonable expense incurred for the purposes of such removal or alteration from the rent payable by him to the owner of the building

(3) If the owner or occupier of the building proves that any such structure or fixture was erected before the first day of June 1865, or that it was erected on or after that day with the consent of any municipal authority duly empowered in that behalf, the Corporation shall, after such structure or fixture has been removed, make reasonable compensation to every person who suffers damage by the removal or alteration thereof.

300. (1) The Corporation may, after giving notice to him, require any person to remove any wall and may of their own motion remove any fence, rail, post, platform, or other obstruction, projection or encroachment (not being a portion of a building or fixture referred to in section 299) which has been erected or set up, and any materials or goods which have been deposited, in a public street or in or over any drain or aqueduct in a public street, whether the offender be prosecuted under this Act or not;

Power to Cor-
poration to cause
wall to be re-
moved or to
remove other
obstructions in
public street

and the offender shall be liable for the payment of the expense of such removal

(Part V.—Chapter XX.—Streets and public places.—Sections 301, 302.)

(2) When under sub-section (1), the Corporation cause any wall to be removed or remove any other obstruction, projection or encroachment from land which forms part of a public street, no compensation shall be payable, but the Corporation shall be bound to provide proper means of access to and from the street if none exists already.

Execution of works in streets.

Provision of facilities, and payment of compensation, when work executed by Corporation in public street.

301. (1) When any work is being executed by the Corporation in any public street, they shall, so far as may reasonably be practicable, make adequate provision for—

- (a) the passage or diversion of traffic ;
- (b) proper access to all premises approached from such street ; and
- (c) any drainage, water-supply, or means of lighting which are interrupted by reason of the execution of such work.

(2) The Corporation shall pay compensation to any person who sustains special damage by reason of the execution of any such work.

Building-lines and street alignments for public streets.

Power to Corporation to prescribe building line and street alignment.

302. (1) If the Corporation consider it expedient to prescribe for any public street a building-line or a street alignment, or both a building-line and a street alignment, they shall give public notice of their intention to do so :

Provided that no building-line shall ordinarily be prescribed for any street laid out and made before the commencement of this Act.

(2) Every such notice shall specify a period within which objections will be received ; and a copy of the notice shall be sent by post to every owner of premises abutting on such street who is registered in respect of such premises in the books of the municipality :

Provided that failure or omission to serve such notice on any owner shall not invalidate proceedings under this section.

(3) The Corporation shall consider all objections received within the said period, and shall hear any objector who comes forward within such period as

of 1923.]

(Part V—Chapter XX—Streets and public places—
Section 303)

they may fix in this behalf, and may then make an order prescribing a building-line or a street alignment, or both a building-line and a street alignment for such public street

A register or book with plans attached shall be kept by the Corporation showing all public streets in respect of which a building-line or street alignment has been prescribed, and such register shall contain such particulars as to the Executive Officer may appear to be necessary and shall be open to inspection by any person on payment of such fee as may from time to time be determined by the Corporation

(4) No building shall be prescribed so as to extend further back than the main front wall of any building (other than a boundary wall) abutting on the street at its widest part

(5) Every order made under sub-section (3) shall be published in the *Calcutta Gazette*, and shall take effect from the date of such publication

303. (1) No portion of any building or boundary wall shall be erected or added to within a street alignment prescribed under section 302

Restrictions on
erection of
addition to
buildings or
boundary
walls within
street alignment
or building line

Provided that the Corporation may, in their discretion, permit additions to a building to be made within a street alignment, if such additions merely add to the height of, and rest upon, an existing building or wall, upon the owner of the building executing if required to do so by the Corporation, an agreement binding himself and his successors in interest—

(a) not to claim compensation in the event of the Corporation at any time thereafter calling upon him or such successors, by written notice, to remove any addition made to any building in pursuance of such permission, or any portion thereof, and

(b) to pay the expenses of such removal

(2) If the Corporation refuse to grant the permission applied for to add to any building on the ground that the proposed site falls wholly or in part within a street alignment prescribed under section 302, and if such site, or the portion thereof which falls within such alignment, be not acquired by the Corporation within six months after the date of such refusal, they shall pay reasonable compensation to the owner of the site.

(Part V.—Chapter XX.—Streets and public places.—
Section 304.)

(3) No person shall erect or add to any building between a street alignment and the building-line without first obtaining the permission of the Corporation to do so :

Provided that it shall not be necessary to obtain permission under this sub-section to erect, between a street alignment and the building-line,—

(a) a porch or balcony, or,

(b) along not more than one-third of the frontage, an outhouse not exceeding fifteen feet in height.

(4) If the Corporation grant permission under sub-section (3), they may require the applicant to execute an agreement in accordance with the proviso to sub-section (1).

Power to Corporation to take possession of, and add to street, land situated within prescribed street alignment or covered by projecting buildings.

304. (1) The Corporation may at any time, after giving notice to the owner of the land of their intention, take possession of—

(a) any land (abutting on a public street) upon which any portion of any building or wall, projecting beyond the front of the adjoining building or wall, on either side of such first-mentioned building or wall, has collapsed or been demolished or burnt down, and

(b) any land not covered by buildings (including land on which a building has collapsed or been demolished or burnt down) which is situated within a street alignment prescribed under section 302,

after making full compensation to the owner thereof for any direct damage which he may sustain thereby and shall take possession of any land as specified, in clause (b) if the owner thereof calls upon them to do so.

(2) Any land taken possession of under sub-section (1) shall forthwith be added to and become part of the said street, and shall vest in the Corporation

Explanation.—The expression “direct damage,” as used in sub-section (1) with reference to land, means the market-value of the land taken and the depreciation, if any, in the ordinary market-value of the rest of the land resulting from the area being reduced in size ; but does not include damage due to any particular use to which the owner may allege that he intended to put the land although such use may be injuriously affected by the reduction of the site.

of 1923.]

*(Part V—Chapter XX—Streets and public
places—Sections 305—308)*

305. The Corporation may, upon such terms as they think fit, allow any building or wall to be set forward for the purpose of improving the line of a public street.

Power to Corporation to set buildings forward to improve line of public street

*Opening, improvement and closing of public streets,
squares and gardens*

306. The Corporation may—

- (a) lay out and make new streets, squares and gardens,
- (b) construct new bridges, causeways, culverts and sub-ways;
- (c) turn, divert, or temporarily or permanently close any public street or part thereof, or permanently close any public square or garden, and
- (d) widen, open, enlarge, or otherwise improve any public street, square or garden.

Power to Corporation to make, improve and close streets, squares and gardens

307. (1) When any public street or part thereof, or any public square or garden is permanently closed under section 306, the Corporation may sell or lease the site of so much of the road-way and foot-path as is no longer required, or the site of the square or garden, as the case may be, making due compensation to, or providing means of access for, any person who may suffer damage by such closing

Power to Corporation to dispose of a permanently closed street square or garden

(2) In determining such compensation under section 523, the court shall make allowance for any benefit accruing to the same premises or any adjacent premises belonging to the same owner from the construction or improvement of any other public street, square or garden, at or about the same time that the public street, square or garden, on account of which the compensation is paid, is closed

Projected public streets.

308 (1) The Corporation may from time to time prepare schemes and plans of projected public streets showing the direction of such streets, the street alignment and building-line on each side of them, their intended width, and such other details as may appear desirable

Projected public streets

(Part V.—Chapter XX.—Streets and public places.—
Sections 309, 310.)

(2) The width of such projected streets, inclusive of space for foot-paths, shall not be less than forty feet or, in a *bustee*, twenty feet :

Provided that—

- (a) the Corporation may, for special reasons, reduce the width of any projected street, but not so as to be less than thirty feet or in a *bustee* sixteen feet ; and
- (b) this sub-section shall not apply in any case in which the projected street, or any part thereof, runs along an existing street and the Corporation consider it impracticable to widen the street to the extent of forty feet or twenty feet, as the case may be.

Provisions of sections 302 and 303 to apply to projected public streets.

309. The provisions of sections 302 and 303 shall, with all necessary modifications, apply to public streets projected under section 308.

Acquisition of land and buildings.

Power to Corporation to acquire land and buildings for improvement of public streets, squares and gardens.

310. (1) The Corporation may acquire—

- (a) any land required for the purpose of opening, widening, extending or otherwise improving any public street, square or garden, or of making any new public street, square or garden, and
- (b) the buildings (if any) standing upon such land.

(2) The Corporation, with the sanction of the Local Government, and after giving due notice of their intention and an opportunity to any objector, who appears within such period as they may fix, to be heard in this connection, may acquire, in addition to any land and buildings acquired under sub-section (1), any land outside any proposed street alignment, with the buildings (if any) standing thereupon, which the Corporation may, for any of the purposes mentioned in sub-section (1), including the recoupment of the cost or any portion of the cost incurred for any such purposes, consider it expedient to acquire.

(Part V.—Chapter XX—Streets and public
places—Section 311)

Abandonment of acquisition

311. (1) In any case in which the Local Government have sanctioned the acquisition of land under section 310, sub-section (2), the owner of the land, or any person having an interest therein greater than a lease for years having seven years to run, may make an application to the Corporation, requesting that the acquisition of the land be abandoned in consideration of the payment by such person of a fee to be fixed by the Corporation in that behalf

Abandonment
of acquisition
in consideration
of special payment

(2) The Corporation shall admit every such application if it reaches them before the time fixed by the Collector under section 9 of the Land Acquisition Act, 1894¹, for making claims in reference to the land

of 1894

Provided that unless the application is made by all the persons who have an interest in the land greater than a lease for years having seven years to run, the application shall not be deemed to be admitted unless the person applying undertakes to pay in one instalment the full fee payable under sub-section (3) and thereafter pays such fee

Explanation—A mortgagee shall not be deemed to be a person having an interest in the land greater than a lease for years having seven years to run

(3) If the Corporation decide to admit any such application, they shall forthwith inform the Collector, and the Collector shall thereupon stay proceedings for the acquisition of the land, for such period as the Corporation may request, and the Corporation shall proceed to fix a fee in consideration of which the acquisition of the land may be abandoned.

(4) In fixing the fee to be paid in consideration of the abandonment of the acquisition of the land, the Corporation shall, so far as to them may appear to be practicable, fix a sum which in their opinion represents two-thirds of the increment in the value of the land, which will in their opinion accrue to that land as a result of the improvements effected in the locality by the scheme for the purposes of which the acquisition has been sanctioned

(5) Such fee shall be and remain a charge on the land, in respect of which it has been fixed, until the repayment thereof with interest in the manner hereinafter provided and shall be payable by the applicant on or before a date to be fixed by the Corporation in this behalf; and such date shall not be less than four years

¹ General Act, Vol. IV

(Part V.—Chapter XX.—Streets and public places.—Section 311.)

from the publication of the notification under section 6 of the Land Acquisition Act, 1894,¹ nor shall such date be a date before that on which the scheme is declared by the Corporation to be completed in so far as it affects such land. I of 189

(6) Before the date so fixed, the person from whom the Corporation have arranged to accept the said fee, may, if the Corporation are satisfied that the security offered by him is sufficient, execute an agreement with the Corporation either—

- (i) to leave the said fee outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at a rate not exceeding seven *per cent. per annum*, the said interest to run from the date fixed under sub-section (5), or
- (ii) to pay the said fee by such number of equal yearly or half-yearly instalments of principal or of principal and interest, as may be approved by the Corporation, interest in both cases being calculated at a rate not exceeding seven *per cent. per annum* on the amount outstanding.

(7) When the said fee has been paid on or before the date fixed under sub-section (5), or when an agreement has been executed in pursuance of sub-section (6) in respect of any land, the proceedings for the acquisition of the land shall be deemed to be abandoned.

(8) If the said fee be not paid on or before the date fixed under sub-section (5), the Collector shall then proceed to acquire the land.

(9) If any sum payable under an agreement executed in pursuance of sub-section (6) be not paid on the date on which it is due, or on such later date as the Corporation may in their discretion fix in this behalf, so much of the fee fixed by the Corporation under sub-section (3) as is still unpaid, shall be payable on that date, in addition to the said sum.

(10) At any time after an agreement has been executed in pursuance of clause (i) of sub-section (6) any person may pay off the balance outstanding of the charge created thereby, with interest due, if any, at a rate not exceeding seven *per cent. per annum*, up to the date of such payment.

of 1923.]

(Part V—Chapter XX—Streets and public places—Sections 312—314)

312. When an agreement has been executed by any person in pursuance of section 311, sub-section (6), in respect of any land, and any money payable in pursuance of that section is not duly paid the same shall be recoverable by the Corporation (together with interest up to the date of realization, at a rate not exceeding seven *per cent per annum*), under the provisions of this Act,

Recovery of money payable in pursuance of section 311

and, if not so recovered, the Corporation may, after giving public notice of their intention to do so, and not less than one month after the publication of such notice, sell the interest of the said person or successor in such land by public auction, and may deduct the said money and the expenses of the sale from the proceeds of the sale, and shall pay the balance (if any) to the defaulter

313. If any land in respect of which an agreement has been executed, or a payment has been accepted, in pursuance of section 311, sub-section (6), be subsequently required for any of the purposes of this Act the agreement or payment shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Land Acquisition Act, 1894¹

Agreement or payment under section 311 not to bar acquisition under a fresh declaration

Special provisions as to private streets

314. (1) Any person intending to make or lay out a new private street shall send to the Corporation a written notice, with plans and sections showing the following particulars of the proposed street, namely—

Making of new private streets

(a) the level, width and alignment thereof, and

(b) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewerage, draining and lighting the street

(2) The provisions of this Act as to the width of public streets and the height of buildings abutting thereon, and as to projected public streets, shall respectively apply in the case of streets referred to in sub-section (1), and all the particulars referred to in that sub-section shall be subject to approval by the Corporation

Provided that the Corporation may allow a private street to be made or laid out of a width less than forty feet but not less than twenty feet, and, if the street is less than two hundred feet in length, the maximum width of such street may ordinarily be taken to be thirty feet instead of forty feet

¹ General Acts, Vol. IV

(Part V.—Chapter XX.—Streets and public places.—Sections 315, 316.)

(3) Within ninety days after the receipt of any notice under sub-section (1), the Corporation shall either sanction the making of the street, or disallow it, or ask for further information with respect to such street.

(4) Such sanction may be refused—

- (i) if the proposed street would conflict with any arrangements which have been made, or which are in the opinion of the Corporation likely to be made within a reasonable period, for carrying out any general scheme of street improvement, or
- (ii) if the proposed street does not conform to the provisions of this Act referred to in sub-section (2), or
- (iii) if the proposed street is not designed so as to connect at one end with a street which is already open.

(5) If further information is asked for under sub-section (3), no steps shall be taken to make or lay out the street until orders have been passed upon receipt of such information, and such orders shall be passed within ninety days of the receipt of such further information.

(6) If within ninety days after the receipt of any notice under sub-section (1), or within ninety days after the receipt of any further information asked for under sub-section (3), the Corporation has not refused sanction to the making of the private street, it shall be deemed that sanction to the same has been granted.

Prohibition of
breach of section
314.

315. Except as provided in sub-section (6) of section 314, no person shall make or lay out any street referred to in sub-section (1) of that section,—

- (a) until he has obtained the sanction of the Corporation under that section, or
- (b) in contravention of any orders made thereunder.

Alteration or
demolition of
street made in
breach of section
314.

316. (1) If any person makes or lays out any street referred to in section 314, sub-section (1), without having obtained the sanction of the Corporation under that section, or in contravention of any orders made thereunder, they may, whether or not the

of 1923.]

*(Part V.—Chapter XX—Streets and public
places—Sections 317, 318)*

offender be prosecuted under this Act, by written notice,—

- (a) require the offender to show sufficient cause, by a written statement signed by him and sent to the Corporation on or before such day as may be specified in the notice, why such street should not be altered to their satisfaction or, if such alteration be impracticable, why such street should not be demolished, or
- (b) require the offender to appear before them, either personally or by a duly authorized agent, on such day and at such time and place as may be specified in the notice, and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show sufficient cause, to the satisfaction of the Corporation, why such street should not be so altered or demolished, they may cause the street to be so altered or demolished, and the expenses thereof shall be paid by such person.

317. (1) If any private street or any part thereof be not levelled, paved, metalled, flagged, channelled, sewered, drained and lighted to the satisfaction of the Corporation, they may, by written notice to the owner of such private street or the respective owners of the land fronting, adjoining or abutting upon such street or part, as the case may be, from time to time require them to level, pave, metal, flag, channel, sewer, drain and light such street or part

Levelling, etc,
of private streets.

(2) If such notice be not complied with and the Corporation, under section 510, sub-section (2) execute the works mentioned or referred to therein, the expenses thereby incurred shall be paid by the owner of such private street or the owners in default, in such proportion as may be settled—

(a) by the Corporation, or,

(b) in case of dispute, by the Court under section 523.

318. If any private street which conforms to the provisions of this Act referred to in section 314, sub-section (2), be levelled, paved, metalled, flagged, channelled, sewered, drained and lighted to the

Power to Cor-
poration to take
over private
streets

(Part V.—Chapter XXI.—Buildings.—Section
325.)

- (d) the erection of buildings of the warehouse class will be allowed, subject to the provisions of this Act relating to such buildings, or
- (e) the erection of huts will not be allowed without the special permission of the Corporation.

(2) A copy of such notice shall be served by the Corporation on all owners of buildings and lands in such street or portion thereof or in such locality, as the case may be, who are registered on the books of the Corporation as such :

Provided that no failure to serve such notice shall invalidate or affect any declaration published under sub-section (5).

(3) No objections to any such declaration shall be received after a period of three months from the publication or the service of such notice.

(4) The Corporation shall consider all objections received within the said period, and shall hear any objectors who may appear before them within such period as they may fix in this behalf, and may prepare a declaration relating to the streets or localities referred to in the notice.

(5) When any such declaration has been so prepared, it shall be published in the *Calcutta Gazette*, and shall take effect from the date of such publication.

(6) No person shall erect any new building in contravention of any such declaration.

Masonry building not to be erected without special permission in certain cases.

325. (1) Save with the special permission of the Corporation, no new building (other than a hut) shall be erected unless—

- (a) the site of such building abuts on a public street, or a projected public street, or a private street duly sanctioned and constructed under section 314, or existing before the commencement of this Act, or
- (b) there is access to the building from any such street by a passage or pathway, appertaining to such site, and not less than twelve feet wide at any part.

(2) No building shall be erected so as to deprive any masonry building of the means of access as provided in this section.

of 1923.]

(Part V.—Chapter XXI—Buildings—Sections
326—329)

326. For the purpose of bringing any public building, except a building which is intended solely for and is used solely as a place of public worship into conformity with the provisions of this Act relating to new public buildings, the Corporation may, by written notice, and after giving him an opportunity of being heard, require the owner of the building to make such alterations therein for the purposes of sanitation and the safety of the public or of the inmates thereof as may be specified in the notice.

Power to Corporation to require alteration of existing public building

327. The Corporation may, by written notice, require the owner of any public building to provide the building with external doors or doorways of such number, height and width as the Corporation may consider necessary, or to cause the external doors thereof to be so constructed or altered as to open outwards.

External doors of public buildings

328. (1) Save with the special permission of the Corporation, no person shall use a building or a substantial part of a building erected for use as, and belonging to, any one class of buildings, as a building of any other class in such a manner that the building or part thereof so used will not be in conformity with the provisions of this Act, or of any rules or by-laws made thereunder, relating to buildings of that other class.

Prohibition of change in user of a building

Act III

Provided that no change made by this Act in the classification of buildings as in force under the Calcutta Municipal Act, 1899, shall have the effect of preventing the use of a building for the purposes for which it was declared to be intended to be used at the time when the plans of such building were sanctioned.

(2) The provisions of sub-section (1) shall not apply to the use as a shop of a building or a substantial part of a building which was not erected for such use.

Provided that if, in any street, portion of a street or locality in which the erection of shops is not allowed under clause (c) of sub-section (1) of section 324, any such building or part thereof is used as a shop without the special permission of the Corporation, they may, by written notice, require the owner or occupier of such shop to close the same.

329. If any dispute arises as to what portion of a building shall be deemed to be a substantial part thereof for the purposes of this Act, it shall be referred to the Corporation, whose decision shall be final.

In case of dispute Corporation to decide what is to be deemed a substantial part of a building

(Part V.—Chapter XXI.—Buildings.—Sections
330—332.)

*Application of Act to alterations of, and additions
to, buildings.*

Application of
Act to alterations
of, and additions
to, buildings.

330. Subject to the provisions of section 331, the provisions of—

(a) this chapter,

(b) Schedule XVII, and

(c) any orders, rules and by-laws made under this Act,

relating to the erection of new buildings, shall, subject to the rules in Part X of the said Schedule XVII, apply to every alteration of, or addition to, any building, and to any other work (except that of necessary repairs not involving any of the works specified in rule 92 of the said schedule) made or done for any purpose in, to, or upon any building.

Explanation.—No work of re-erection or re-construction which would constitute any building a new building under sub-clauses (b), (c) or (d) of clause (46) of section 3 shall, for the purposes of this section, be deemed to be an alteration of, or addition to, or any other work made or done to or upon, such building, but in the case of such re-erection or re-construction the provisions relating to the erection of new buildings as referred to in this section shall apply to the whole of the said new building.

Power to relax
provisions of
chapter and Sched-
ule XVII.

331. In the case of an erection of any new building as defined in sub-clauses (b), (c) or (d) of clause (46) of section 3, and in the case of any addition or alteration or other work referred to in section 330, such relaxation of the provisions of this chapter and Schedule XVII may be made as the Corporation may think fit:

Provided that—

(1) no such relaxation shall apply to cases other than those specifically mentioned in rule 94 of Schedule XVII, and

(2) such relaxations are not likely prejudicially to affect the sanitation or ventilation of the building or other buildings in its vicinity.

Erection of, or
addition to, bound-
ary wall affect-
ing an easement.

332. The Corporation shall not refuse sanction to the erection of a boundary wall exceeding ten feet in height or to any addition to any boundary wall so as to make it exceed ten feet in height on the ground that such boundary wall or such addition

of 1923.]

(Part V—Chapter XXI—Buildings—Sections 333,
334)

would cause interference with an existing easement in favour of, or prevent the acquisition of an easement by, the owner of adjacent premises

Exemptions

333. The following buildings shall be exempted from the operation of this chapter namely,—

Exemptions

(a) any building erected and used, or intended to be erected and used exclusively for the purpose of accommodating a pump for pumping water to the higher storeys of a building, or exclusively for the purpose of a plant-house, summer-house (not being a dwelling-house), poultry-house or aviary, if the building be wholly detached from, and situated at a distance of at least ten feet from, the nearest adjacent building,

(b) any building erected or intended to be erected by, or with the sanction of, the Corporation, for use solely as a temporary hospital for the reception and treatment of persons suffering from any dangerous disease, and

(c) any hoarding or like means of protection (other than a masonry wall) which the owner of any premises certifies to the Executive Officer not less than seven days after its erection to have been erected for the purpose of preventing the threatened acquisition of any easement over his own premises or any portion thereof, provided that the stability of such hoarding or other means of protection is certified by the Executive Officer

334. (1) No building shall be erected or used for a temporary purpose without the approval of the Corporation, or otherwise than in accordance with any by-laws made in this behalf under this Act

Erection and
use of temporary
building to be
approved by
Corporation

(2) If any building erected and used for a temporary purpose is not used strictly for such purpose and in accordance with any by-laws made under this Act, the building may be demolished by the Corporation at the expense of the owner thereof whether he is prosecuted under this Act or not.

(Part V.—Chapter XXI.—Buildings.—Sections
330—332.)

*Application of Act to alterations of, and additions
to, buildings.*

Application of
Act to alterations
of, and additions
to, buildings.

330. Subject to the provisions of section 331, the provisions of—

(a) this chapter,

(b) Schedule XVII, and

(c) any orders, rules and by-laws made under
this Act,

relating to the erection of new buildings, shall, subject to the rules in Part X of the said Schedule XVII, apply to every alteration of, or addition to, any building, and to any other work (except that of necessary repairs not involving any of the works specified in rule 92 of the said schedule) made or done for any purpose in, to, or upon any building.

Explanation.—No work of re-erection or re-construction which would constitute any building a new building under sub-clauses (b), (c) or (d) of clause (46) of section 3 shall, for the purposes of this section, be deemed to be an alteration of, or addition to, or any other work made or done to or upon, such building, but in the case of such re-erection or re-construction the provisions relating to the erection of new buildings as referred to in this section shall apply to the whole of the said new building.

Power to relax
provisions of
chapter and Sched-
ule XVII.

331. In the case of an erection of any new building as defined in sub-clauses (b), (c) or (d) of clause (46) of section 3, and in the case of any addition or alteration or other work referred to in section 330, such relaxation of the provisions of this chapter and Schedule XVII may be made as the Corporation may think fit:

Provided that—

(1) no such relaxation shall apply to cases other than those specifically mentioned in rule 94 of Schedule XVII, and

(2) such relaxations are not likely prejudicially to affect the sanitation or ventilation of the building or other buildings in its vicinity.

Erection of, or
addition to, bound-
ary wall affect-
ing an easement.

332. The Corporation shall not refuse sanction to the erection of a boundary wall exceeding ten feet in height or to any addition to any boundary wall so as to make it exceed ten feet in height on the ground that such boundary wall or such addition

of 1923.]

(Part V—Chapter XXI—Buildings—Sections 333,
334)

would cause interference with an existing easement in favour of, or prevent the acquisition of an easement by, the owner of adjacent premises

Exemptions

333. The following buildings shall be exempted from the operation of this chapter namely,—

See also

- (a) any building erected and used, or intended to be erected and used, exclusively for the purpose of accommodating a pump for pumping water to the higher storeys of a building, or exclusively for the purpose of a plant-house, summer-house (not being a dwelling-house), poultry-house or aviary, if the building be wholly detached from, and situated at a distance of at least ten feet from, the nearest adjacent building,
- (b) any building erected or intended to be erected by, or with the sanction of, the Corporation, for use solely as a temporary hospital for the reception and treatment of persons suffering from any dangerous disease, and
- (c) any hoarding or like means of protection (other than a masonry wall) which the owner of any premises certifies to the Executive Officer not less than seven days after its erection to have been erected for the purpose of preventing the threatened acquisition of any easement over his own premises or any portion thereof, provided that the stability of such hoarding or other means of protection is certified by the Executive Officer

334. (1) No building shall be erected or used for a temporary purpose without the approval of the Corporation, or otherwise than in accordance with any by-laws made in this behalf under this Act

Erection and use of temporary building to be approved by Corporation

(2) If any building erected and used for a temporary purpose is not used strictly for such purpose and in accordance with any by-laws made under this Act, the building may be demolished by the Corporation at the expense of the owner thereof whether he is prosecuted under this Act or not.

(Part V.—Chapter XXII.—Bustees.—Sections
335—337.)

CHAPTER XXII.

BUSTEES.

Preliminary.

Power to Corporation to define and alter limits of bustees.

335. The Corporation may define the external limits of any *bustee*, and may from time to time alter such limits.

Restriction on application of this chapter to certain bustees or to masonry buildings in bustees.

336. None of the powers conferred by any of the following sections of this chapter shall be exercisable in respect of—

- (a) any *bustee* the total area of which, as comprised within the limits defined under section 335, is less than two *bighas*, or
- (b) any masonry building existing in a *bustee* at the time when a standard plan is approved or alignments are prescribed under section 360 for such *bustee*, as the case may be.

Improvement of bustees.

Power to Corporation to require owner of bustee of area between ten *cottahs* and two *bighas* to carry out certain improvements.

337. (1) Notwithstanding anything contained in section 336, the Corporation may, for sanitary reasons, require the owner of any *bustee* of which the total area as comprised within the limits defined under section 335 is more than ten *cottahs* but less than two *bighas*,—

- (a) to open up and construct such passages, not exceeding twelve feet in width, between the huts, and to provide such surface drains and latrines for the use of the tenants of the *bustee*, as the Corporation may think necessary, and
- (b) to remove the whole or any portion of a hut, provided that the owner of the hut shall be entitled to receive from the Municipal Fund such compensation calculated according to the estimated value of the structure removed, as the Corporation may determine.

(2) When the Corporation propose to issue a requisition in respect of any *bustee* under sub-section (1), they shall prepare a standard plan showing the proposed improvements, and may then, by written notice, call on the owner of the *bustee* to show cause why the *bustee* should not be improved within a date to be fixed in conformity with the said plan.

of 1923.]

(Part V—Chapter XXII—Bustees—Section
338)

(3) The provisions of sections 345, 346, 347, 352, 355, 356 and 359 shall, with all necessary modifications, be deemed to apply in the case of every requisition issued under sub-section (1)

338. (1) The Corporation may at any time, if it appears to them that any *bustee*, for sanitary reasons, requires improvement, serve a written notice upon the owner of such *bustee* requiring him to prepare and submit a plan of the *bustee*, to the scale of twenty-five feet to the inch, showing—

Power to Corporation to require preparation of standard plan by owner of bustees

- (a) the manner in which the *bustee* should be laid out, with the huts standing in regular lines and with a free passage, in front of and behind each line, of such width as may be necessary for proper ventilation and for scavenging,
- (b) the drains for the general use of the tenants of the *bustee*,
- (c) the means of lighting, common water-supply, bathing arrangements (if any) and common privy accommodation to be provided for the use of the tenants
- (d) the streets and passages which are to be maintained for the benefit of the tenants,
- (e) the tanks, wells and low lands which are to be filled up and the tanks which are to be conserved, and
- (f) any other proposed improvements.

Provided that when there are two or more owners of a *bustee* the Corporation may require them to prepare and submit a joint plan of the *bustee*

(2) The streets referred to in clause (d) of sub-section (1) shall be not less than sixteen feet wide and ordinarily not more than two hundred feet apart, and the passages referred to in that clause shall be not less than twelve feet wide.

(3) If there is any masonry building within the limits of the *bustee*, the said plan shall be so prepared as clearly to distinguish such building and the land pertaining to it.

(4) The said plan—

- (i) shall be considered by the Corporation and modified in such manner as may be required, and

- (ii) shall, when approved by them, be deemed to be the standard plan of the *bustee*.

(Part V.—Chapter XXII.—Bustees.—Sections 339—341.)

Preparation of standard plan by Corporation where owners disagree, etc.

339. (1) If, after the service of a notice under section 338 on the owners of any *bustee*, such owners—

- (a) do not agree among themselves in the preparation of a plan as required by such notice, or
- (b) for any reason prefer to have a plan prepared for them by the Corporation, or
- (c) fail to comply within sixty days with such notice,

the Corporation shall cause the *bustee* to be inspected by two persons appointed in that behalf, one of whom shall be a medical officer of the Corporation or a person holding the diploma of Public Health or such other qualification as may be prescribed by the Corporation in this behalf, and the other an engineer, and the Corporation on receipt of their report shall cause a plan to be prepared to the scale and showing the particulars prescribed in the said section.

(2) When a plan has been prepared under sub-section (1), the Corporation shall fix a day for the hearing of objections (if any) made by or on behalf of the owners of the *bustee* and the owners of huts or masonry buildings therein,

and, after hearing such objections, may, in their discretion, approve such plan either with or without modifications.

(3) Every plan of a *bustee* approved under sub-section (2) shall be deemed to be the standard plan of the *bustee*.

(4) When the Corporation cause a plan to be prepared under sub-section (1), they may charge the said owners therefor at a rate not exceeding five rupees *per bigha*.

Suspension of building pending preparation of standard plan.

340. When the owner of a *bustee* has been required under section 338 to prepare a plan, no new building which is a hut shall be erected and no hut shall be added to within the *bustee* until a plan has been prepared and approved under that section or under section 339.

Prohibition of building contrary to standard plan.

341. When a standard plan has been approved for any *bustee* under section 338 or section 339, no new building which is a hut shall be erected and no hut shall be added to in such *bustee* unless the hut, or the portion to be added, as the case may be, occupies a site, or portion of a site, marked in the standard plan as the site for a hut.

of 1923.]

(Part V—Chapter XXII—Bustees—Sections
342—344)

342. (1) When a standard plan has been approved for any *bustee* under section 338 or section 339, the Corporation may at any time, by written notice, require the owner of any hut in such *bustee*, which is not in conformity with the standard plan, to remove the whole or any portion of such hut

lower to Cor-
poration to
require removal
of hut not in
conformity with
standard plan

(2) When a hut or portion of a hut has been removed in compliance with a requisition made under sub-section (1), the owner thereof shall be entitled to receive from the Municipal Fund such compensation calculated according to the estimated value of the structure removed, less the value of the materials, if the owner elects to take these, as the Corporation may determine

343. (1) The Corporation may at any time, by written notice, require the owner of any *bustee* for which a standard plan has been prepared under section 338 or section 339—

Power to Cor-
poration to re-
quire carrying out
of other improve-
ments in conform-
ity with
standard plan

(a) to construct the drains, privies, streets and passages, provide the means of lighting, water supply and common bathing arrangements, and carry out the other improvements shown in such plan, so far as may be practicable having regard to the existing arrangement of the huts, and

(b) if any tank, well or low land is shown in such plan as to be conserved or filled up, to conserve or fill up such tank, well or low land.

(2) Until such notice is complied with, the Corporation may refuse to sanction the erection of a new building which is a hut or the making of any addition to any hut in the *bustee*

344. (1) If it appears to the Corporation that any *bustee*,—

Inspection, re-
port and prepara-
tion of standard
plan by registered
medical practi-
tioner and engi-
neer, in cases
requiring expedi-
tion

(a) by reason of the manner in which the huts are crowded together, or

(b) for any other reason,

is in such an unhealthy condition that the procedure provided by the foregoing sections of this chapter would be too dilatory to meet the emergency,

they may, after giving notice to the owners of the *bustee*, cause the *bustee* to be inspected by two persons appointed in that behalf, one of whom shall be a medical officer of the Corporation or a person holding the diploma of Public Health or having such other

(Part V.—Chapter XXII.—Bustees.—Section
344.)

qualifications as may be prescribed by the Corporation in this behalf, and the other an engineer. In appointing such persons the Corporation shall consider any proposals made by the owner of the *bustee* in this connection.

(2) The said persons shall forthwith—

- (a) make, sign and submit a written report on the sanitary condition of the *bustee*, and
- (b) annex to the report a plan approved by them as a proper standard plan of such *bustee*, and

(c) certify—

(i) which of the improvements required to bring the *bustee* into conformity with such plan should be taken in hand forthwith in consequence of the unhealthy condition of the *bustee*; and

(ii) which (if any) of such improvements should be deferred for action under the foregoing sections of this chapter.

(3) The improvements referred to in sub-clauses (i) and (ii) of sub-section (2) shall be specified in two separate schedules which shall be annexed to the report and called Schedule A and Schedule B, respectively.

(4) The said schedules shall clearly indicate—

- (a) the huts which should wholly or in part be removed,
- (b) the streets, passages and drains which should be constructed,
- (c) the means of lighting, water-supply, common bathing arrangements and common privy accommodation to be provided for the use of the tenants,
- (d) the tanks, wells and low lands which should be filled up,
- (e) any other improvements which the two persons appointed under sub-section (1) may consider necessary in order to remove or abate the unhealthy condition of the *bustee*, and

of 1923.]

(Part V.—Chapter XXII—Bustees—Sections
345—347)

(f) any masonry building within the *bustee*, and any land pertaining to such building which it may be necessary to purchase or acquire for the purpose of making such streets or passages, or effecting any such improvement

(5) A report (together with the schedules annexed thereto) made and signed under this section by any two persons appointed under sub-section (1) shall be sufficient evidence of the result of such inspection

345. (1) The Corporation shall consider every report (together with the plan and Schedules A and B annexed thereto) made under section 344, and, after hearing the objections (if any) of the owner of the *bustee* in respect of which the report has been made, and of any owner of any hut which is required to be demolished or altered and of the owner of any masonry building which is to be dealt with under sub-section (4) of section 344, may approve such plan and schedules after making such modifications (if any) therein as they may think fit

Approval by Corporation of standard plan and schedules annexed to such report

(2) The plan so approved shall be deemed to be the standard plan of such *bustee*

346. When Schedule A, annexed to a report made under section 344, has been approved under section 345, the Corporation may cause a written notice to be served upon—

Power to Corporation to require owners or occupiers to carry out improvements specified in Schedule A

(a) the owners of the huts referred to in such Schedule A, or

(b) the owners of the *bustee* in which such huts are situated,

requiring them to carry out all or any of the improvements specified in that schedule or any portion of such improvements.

347. When any improvements required by a notice under section 346 are carried out by the Corporation under section 310, all expenses incurred thereby, including such reasonable compensation as the Corporation may think fit to pay to the owners or occupiers of huts removed,

Payment of expenses incurred in carrying out improvements.

shall be paid by the owner of the *bustee* to the Corporation and shall constitute a charge upon such *bustee*

Provided that, notwithstanding anything contained in section 516, if it appears to the Corporation that any such owner is unable, by reason of poverty,

(Part V.—Chapter XXII.—Bustees.—Sections
348—350.)

to pay such expenses or any portion thereof, in the case of expenses relating to work which should, in the opinion of the Corporation, have been done by the owners or occupiers of huts within the *bustee*, they may order the same or any portion thereof to be paid out of the Municipal Fund, and in the case of expenses which should be paid by the owner of the *bustee*, they may order the same or any portion thereof to be advanced out of the Municipal Fund, but thereafter to constitute a charge upon such *bustee*.

Disposal by the Corporation of materials of huts pulled down.

348. (1) If, in carrying out any improvement as provided in section 346, the Corporation cause any hut or portion of a hut to be pulled down, they shall—

(a) cause the materials of such hut or portion of a hut to be given to the owner of the hut if such owner elects to take them; or

(b) if the owner does not elect to take the materials, or if the owner be unknown or the title to the hut be disputed, cause such materials to be sold, and hold in deposit the proceeds of the sale, together with any sum awarded as compensation under section 347.

(2) Any amount held in deposit under clause (b) of sub-section (1) shall be so held by the Corporation until any person obtains an order from a competent Court for the payment to him of such amount.

(3) A Court of Small Causes shall be deemed to be a competent Court for the purposes of this section.

349. The Corporation may, at any time after the receipt of a report made under section 344, purchase or acquire—

(a) any masonry building within such *bustee*, or

(b) any land appertaining to such building, or

(c) any such building, together with the land appertaining thereto or any portion thereof,

which is mentioned in that behalf in Schedule A or Schedule B annexed to such report.

Power to Corporation to purchase or acquire masonry buildings or land in *bustee*.

Application of sections 341 to 343 to *bustee* for which standard plan has been approved under section 345.

350. When a standard plan of a *bustee*, and any Schedule B, annexed to the report made under section 344 with respect to that *bustee*, have been approved under section 345—

(a) the provisions of section 341 shall apply to such *bustee*, and

of 1923.]

(Part V—Chapter XXII—Bustees—Section
351)

- (b) the provisions of sections 342 and 343 shall apply to such *bustee* in respect of the improvements indicated in that schedule as provided in section 344, sub-section (4)

351. (1) Notwithstanding anything contained in sections 345 to 350, the Corporation may, after receipt of a report made under section 344 with respect to any *bustee*, and after giving an opportunity of being heard to the owner thereof, pass a resolution to the effect that the *bustee* is an unhealthy area and that, in their opinion, the purchase or acquisition of the *bustee*, or of any portion thereof, is necessary for the purpose of making the improvements referred to in the said report

Alternative power to Corporation to make standard plan, to purchase or acquire *bustee*, and to carry out improvements themselves or through purchaser or lessee

(2) When any such resolution has been passed, the Corporation shall make a plan for the improvement of the said *bustee* or portion thereof, together with such estimates as may be necessary for a due understanding of the same, and may then purchase or acquire the said *bustee* or portion thereof, and such plan shall be deemed to be the standard plan of the *bustee*

(3) When any *bustee* or portion of a *bustee* has been so purchased or acquired, the Corporation shall as soon as is reasonably practicable, either—

(a) sell or let the same or part thereof to any person for the purpose and under the condition that he will, as respects the land so sold or leased to him, carry out the improvements shown in such standard plan, or

(b) themselves bring the said *bustee* or portion thereof or any part of the same which has not been sold or leased under clause (a), into conformity with such standard plan, or

(c) proceed under the provisions of section 168 to take measures for the erection of sanitary dwellings for the working classes or for the poorer classes, or for both, on such land.

(4) Whenever the Corporation decide to sell or let under sub section (3) any *bustee* or portion thereof so purchased or acquired from any person, they shall offer to the said person or his heirs, executors or administrators a prior right to purchase or take on lease such *bustee* when disposing of the same under sub-section (3), if such person applies in this behalf

(Part V.—Chapter XXII.—Bustees.—Sections
352, 353.)

such rate and on such terms and conditions as may be fixed by the Corporation, if the Corporation consider that such a right can be given without detriment to the carrying out of the purposes of this Act. If more than one person applies to the Corporation that a *bustee* or portion thereof be sold or let to him, the Corporation shall determine which of such persons has the prior right to take such *bustee* under this section.

(5) Whenever action is taken under clause (a) of sub-section (3), the provisions of sub-section (2) or sub-section (3) of section 471, as the case may be, shall be applicable.

Proportions of
area of *bustee* to
be shown in
standard plan as
streets, passages
and open lands.

352. (1) No standard plan approved for a *bustee* under this chapter shall, without the consent of the owner thereof, show more than—

- (a) one-fourth of the whole area of such *bustee* as streets or passages, or
- (b) one-third of such area as open lands not to be built upon, whether such open lands be common ground, streets, passages or spaces behind a line of huts.

(2) In calculating the said proportions of one-fourth and one-third of any such area, no tank situated therein that has not been filled up shall be taken into account.

Regulation of
plots by standard
plan, and com-
pensation for ad-
justment of plots.

353. (1) When the land included in a *bustee* is owned by more owners than one, each owning one or more separate plots of such land, the standard plan approved under this chapter for such *bustee* shall, as far as practicable, provide—

- (a) for one or more huts being completely contained in each such plot, and
- (b) for such proportion of each such plot being taken for streets, passages and open land as is specified in section 352.

(2) If a greater proportion of any one such plot than the proportion specified in section 352 is so taken, such standard plan shall indicate—

- (i) the compensation which shall be payable to the owner of such plot, and
- (ii) the persons who are liable to pay such compensation by reason of their benefiting by such greater proportion having been taken.

of 1923.]

(Part V—Chapter XXII—Bustees—Sections
354—356)

(3) If no person can equitably be called upon to pay such compensation, the same shall be paid by the Corporation.

(4) Any compensation payable under this section to the owner of any land in a *bustee* shall not be paid until such land has been brought into complete conformity with the standard plan

354. (1) Every street or passage in a *bustee* which is shown in the standard plan approved under this chapter for that *bustee* and which is not already a public street, shall unless the Corporation and the owners of the land on which such street or passage is situated otherwise consent as provided in section 318, be deemed to be a private street, and the portion thereof which falls on the land of each owner shall belong to such owner

Streets and passages shown in standard plan, if not public streets, to remain private

Provided that any portion of any such street or passage which is situated on land purchased or acquired by the Corporation under section 349 shall remain the property of the Corporation

(2) Every such private street shall, at all times, be kept open for scavenging purposes and for all other purposes of this Act in such manner as the Corporation may require, and shall also be kept open for the use of all the tenants of the *bustee*

Provided that, notwithstanding anything contained in the Indian Limitation Act 1908,¹ no use of any such street shall, by reason of any lapse of time, be held to confer a right of way on the public so as to bring the street within the definition of a "public street", in clause (57) of section 3

355. The bathing arrangements and privy accommodation in a *bustee*, which are shown in the standard plan approved under this chapter for such *bustee* as being common to the use of all or some of the tenants of the *bustee*, shall at all times be kept available for the use of such tenants

Bathing arrangements and privy accommodation in *bustee*, as shown in standard plan, to be kept open for use of tenants

Provided that, notwithstanding anything contained in the Indian Limitation Act, 1908,¹ if at any time the land on which any such bathing arrangements or privy accommodation are provided ceases to form part of such *bustee*, no such use shall, by reason of any lapse of time, be held to confer any right on any person so as prejudicially to affect the rights of the owner of such land

356. (1) The owner of any land in a *bustee*, for which a standard plan has been approved under this chapter, shall maintain in proper order and repair,

Owner of land in *bustee* to maintain certain conveniences on his land

(Part V.—Chapter XXII.—Bustees.—Sections
357, 358.)

to the satisfaction of the Corporation, such streets, passages, drains, common bathing arrangements, common privy accommodation, means of lighting, means of water-supply and other works on such land as may be shown in the plan.

(2) The Corporation may, at any time, cause a written notice to be served upon such owner requiring him so to maintain such streets, passages, drains, common bathing arrangements, common privy accommodation, means of lighting, means of water-supply and other works:

Provided that any convenience made by the owner of a hut for his own use shall, subject to such notice as aforesaid, be maintained by him and not by the owner of the *bustee*.

(3) If the Corporation are satisfied that any street, passage, drain, bathing arrangements, privy accommodation, means of water-supply or other work or any portion thereof, has been damaged by any tenant or tenants of the *bustee*, the Corporation may, if they think it desirable to do so, call upon such tenant or any one or more of such tenants by a written notice to repair such street, passage, drain, bathing arrangements, privy accommodation, means of water-supply or other work or portion thereof.

357. (1) The owner of any land in a *bustee*, for which a standard plan has been approved under this chapter, shall be deemed to be the occupier of—

- (a) all the streets, passages and common ground,
- (b) all drains provided for the use of more than one hut, and

(c) the common bathing arrangements, common privies and means of lighting the *bustee*, on such land, so far as the same are constructed in accordance with the standard plan.

(2) The owner of any hut in such *bustee* shall be deemed to be the occupier of—

- (i) the land on which such hut stands,
- (ii) the open space behind such hut which appertains thereto, and
- (iii) every drain, privy, means of lighting or water connection (if any) provided for the sole use of such hut.

358 When a *bustee* has been brought into conformity with the standard plan approved under this chapter for such *bustee*, it shall be deemed to be a remodelled *bustee*.

Rights of land-owner and hut-owner, respectively, over streets, land and drains shown in standard plan.

Bustee when to be deemed a remodelled *bustee*.

of 1923.]

(Part V—Chapter XXII.—Bustees.—Section 359.)

359. (1) The owner of any land included in a *bustee* and bearing a separate number in the assessment-book may, at any time, whether a standard plan for the *bustee* has been prepared under this chapter or not, send a written notice to the Corporation that he intends to remove all the huts standing on such land.

Power to owner to take land out of the category of *bustee* in certain cases.

Provided that the receipt of any such notice by the Corporation shall not be a bar to the approval by the Corporation, under this chapter, of a standard plan of such *bustee*.

(2) From the date of such notice no application shall be entertained for erecting on such land any new building which is a hut or adding to any hut standing thereon.

(3) Such owner shall, within six months after the date of such notice, or within such further time as the Corporation may from time to time allow, remove all huts standing on such land; and, if he does not do so, the notice shall be deemed to be cancelled.

(4) When all such huts have been so removed, such land shall, according to its situation, either—

(i) be altogether excluded from the limits of the *bustee*, or

(ii) be shown in a standard plan approved for the *bustee* under this chapter, as not being a part of such *bustee*.

Provided that, if in the standard plan any street or passage is shown on such land, the provisions of sections 343, 346, 350, 354, 356 and 357 shall, with all necessary modifications, be deemed to apply to such street or passage unless the Corporation otherwise direct.

(5) If, after all the huts standing on any land have been removed under sub-section (3), any application is received for erecting any hut on such land, the Corporation may, by written notice, require the owner of the land to carry out such improvements included in the standard plan as they may think fit.

(6) When all the huts standing on any land within a *bustee* have been removed under sub-section (3), the Corporation may either—

(a) cancel the standard plan (if any) already approved, under this chapter, for such *bustee*, or

(b) modify such plan after hearing the objections (if any) of any owner of land included in such *bustee*.

(Part V.—Chapter XXII.—Bustees.—Section 360.)

(7) Where any land, formerly included in a *bustee*, ceases to be so included, and where any street or passage was shown on such land in the standard plan and where on such land ceasing to be so included the Corporation do not consider it to be practicable or do not consider it to be expedient to change the alignment of such street they shall, in applying the proviso to sub-section (4) to such street, compensate the owner of such land for any area that is included in such street which is in excess of one-seventh of the entire area of the land which ceases to be included in the *bustee*.

Bustee streets.

Power to Corporation to prescribe alignments for *bustee* streets.

360. (1) In any *bustee*, in respect of which a standard plan has not been prepared, or in any area in which it appears to the Corporation that huts are likely to be erected, the Corporation may, after hearing the objections, if any, of any owner of land in such *bustee*, prescribe alignments, not more than sixteen feet in width, for such private streets as they may think fit.

(2) When the land within such *bustee* or area is owned by more owners than one, each owning one or more separate plots of such land, such alignments shall, as far as practicable, be so prescribed as not to occupy, within any such plot, more than one-fifth of the area thereof and shall not ordinarily be less than two hundred and fifty feet apart.

(3) If, in any such plot, more than one-fifth of the area thereof is occupied by such alignments, the Corporation shall pay reasonable compensation to the owner of the plot:

Provided that no such compensation shall be paid in respect of any such plot as long as any hut or other structure other than a masonry building is left standing within any such alignment in the plot.

(4) No hut or portion of a hut shall be erected within any alignment prescribed under sub-section (1).

(5) The provisions of section 354 shall, with all necessary modifications, be deemed to apply to every street the alignment for which has been prescribed under this section.

of 1923.]

(Part V.—Chapter XXII —Bustees —Chapter XXIII.
—Demolition, alteration and stopping of unlawful work—Sections 361—363)

361. (1) In any bustee, at any time after the expiration of seven years from the time when any alignment has been prescribed—

- (a) for a street under section 360 or
- (b) for huts under rule 66 of Schedule XVII,

Power to Corporation to require removal of existing huts with a street or hut alignment in bustee

the Corporation may, by written notice, require the owner of the land or the owners or occupiers of existing huts to remove such huts or portions thereof as fall—

- (i) within any such prescribed street alignment, or
- (ii) within six feet on either side of any such prescribed hut alignment,

as the case may be

(2) When a hut has been removed under the provisions of sub-section (1), the Corporation shall pay to the owner thereof such compensation as they may consider to be reasonable, but such compensation shall in no case exceed the value of the hut less the value of the materials thereof

362. Any person who erects a masonry building—

- (a) in any bustee in respect of which a standard plan has been approved under sections 338, 339 or 345, or
- (b) in any bustee or area in respect of which alignments for streets have been prescribed under section 360,

Power to Corporation to require space to be kept between masonry building in bustee and centre line of bustee street

shall, if so required by written notice issued by the Corporation, leave a clear space of fifteen feet between the centre line of any street or passage shown in such plan, or of any street the alignment for which has been so prescribed, as the case may be, and the nearest part of such building.

CHAPTER XXIII.

DEMOLITION, ALTERATION AND STOPPING OF UNLAWFUL WORK.

363. (1) If the Corporation are satisfied—

- (1) that the erection of any new building—

- (a) has been commenced without obtaining the written permission of the Corporation,

Demolition or alteration of building work unlawfully commenced or completed

(Part V.—Chapter XXIII.—Demolition, alteration
and stopping of unlawful work.—Section 363.)

- (b) is being carried on or has been completed otherwise than in accordance with the particulars on which such permission was based, or
- (c) is being carried on or has been completed in breach of any provision contained in this Act or in any rules or by-laws made thereunder, or of any direction or requisition lawfully given or made under this Act or under such rules or by-laws, or
- (2) that any alteration of, or addition to, any building or any other work made or done for any purpose in, to or upon any building, has been commenced or is being carried on or has been completed in breach of, or otherwise than in accordance with, any sanction granted under sections 330, 340 or 341, or
- (3) that any alterations required by any notice issued under rule 22 of Schedule XVII have not been duly made,

they may, after giving the owner of such building an opportunity of being heard, apply to a Magistrate, and such Magistrate may make an order directing that such erection, alteration, addition or other work, as the case may be, or so much thereof as has been executed unlawfully as mentioned in clauses (1), (2) or (3),

or that any structure, specified under the *Explanation* to clause (d) of rule 53, or the *Explanation* to clause (iv) of rule 81, of Schedule XVII as a structure to be demolished or altered, shall—

- (i) be demolished by the owner thereof or altered by him in accordance with the order of the Magistrate to the satisfaction of the Corporation, as the case may require, or
- (ii) be demolished or altered by the Corporation at the expense of the said owner :

Provided that the Magistrate—

- (a) shall not make any order under this section without giving the owner and occupier of the building to be so demolished or altered full opportunity of adducing evidence and of being heard in his defence, and

of 1923.]

(Part V.—Chapter XXIII—Demolition, alteration and stopping of unlawful work—Section 364)

- (b) may make any such order notwithstanding the fact that a valuation of such building has been made by the Executive Officer under Chapter X for the assessment of the consolidated rate

Provided that where the Corporation have instituted proceedings under section 493, no application shall be made under this section

(2) Notwithstanding anything contained in sub-section (1), no proceedings shall be instituted thereunder in respect of any work which has been done more than five years before the institution of such proceedings

Provided that the onus of proving that the work was done more than five years previously shall lie on the owner

364. (1) In any of the following cases, namely,—

Demolition or alteration of work in other cases

- (1) if, within the period prescribed in any notice issued under section 299, sub-section (1), requiring the removal or alteration of a verandah, platform or other similar structure or a fixture, the same be not duly removed or altered, or
- (2) if the owner of any building erected or added to between a street alignment and the building-line fails to remove such building or addition when called upon by the Corporation to do so under section 303, sub-section (3), or
- (3) if any person who makes any additions to a building in pursuance of an agreement executed under the proviso to sub-section (1) of section 303, fails to remove such additions when called upon by the Corporation to do so, or
- (4) if the owner of any building erected or added to under the provisions of section 309 fails to remove such building or addition when called upon to do so, or
- (5) if the owner of any building, which is unfit for human habitation, fails to demolish such building when required to do so under section 382, sub-section (2), or
- (6) if any privy or urinal be placed in contravention of rule 21 or rule 22, sub-rule (1) of Schedule XV, or

(Part V.—Chapter XXIII.—Demolition, alteration and stopping of unlawful work.—Section 364.)

- (7) if, within the period prescribed in any notice issued under rule 2, sub-rule (5), of Schedule XVI, requiring the owner or occupier of a building to comply with any condition on which the erection of any verandah or other projection was permitted, such condition is not complied with, or
- (8) if, within the period prescribed in any notice issued under rule 2, sub-rule (6), of Schedule XVI, requiring the owner or occupier of a building to remove a verandah or other projection, the same be not duly removed, or
- (9) if, within the period prescribed in any notice issued under rule 7, sub-rule (2), of Schedule XVII, requiring the owner of a building to remove or alter an external roof or wall made of inflammable material, the same be not duly removed or altered, or
- (10) if any owners or occupiers neglect to execute any works or to take any measures required by any notice affixed under rule 6, sub-rule (1), of Schedule XVIII,

the Corporation may apply to a Magistrate, and such Magistrate may make an order directing that the projection, building, block of buildings, verandah, platform, fixture, additions, roof, wall, privy or urinal, as the case may be, shall—

- (a) be demolished by the owner thereof or altered by him to the satisfaction of the Corporation, or
- (b) be demolished or altered by the Corporation at the expense of such owner:

Provided that, before making such application, the Corporation shall give the owner or occupier an opportunity of being heard on his behalf:

Provided also that the Magistrate—

- (i) shall not make any order under this section without giving the owner and occupier of the structure to be so demolished or altered full opportunity of adducing evidence and of being heard in his defence, and

of 1923.]

(Part V—Chapter XXIII—Demolition, alteration and stopping of unlawful work—Chapter XXIV—Lighting and scavenging and regulation of public bathing and washing—Sections 365, 366)

(iv) may make any such order notwithstanding the fact that a valuation of such building has been made by the Executive Officer under Chapter X for the assessment of the consolidated rate

Provided also that where the Corporation have instituted proceedings under section 493, no application shall be made under this section

(2) The provisions of sub-section (2) of section 363 shall apply, *mutatis mutandis*, to the institution of proceedings under this section

365. (1) In any case in which the erection of a new building, or any other work referred to in section 363, has been commenced, or is being carried on unlawfully as mentioned in that section, the Corporation may, by written notice, require the person carrying on such erection or other unlawful work to stop the same, pending the decision of a Magistrate on an application to be made to him under that section

Power to Corporation to stop progress of building work unlawfully commenced or carried on

(2) If any notice issued under sub-section (1) is not duly complied with, the Corporation may with the assistance of the police, if necessary, take such steps as they may deem needful in order to stop the continuance of the unlawful work

(3) If it appears to the Corporation that it is necessary, in order to prevent the continuation of the unlawful work, to depute any police or municipal officer to watch the premises, they may require the person to whom the said notice was addressed to bear the cost of providing the same

(4) Pending the decision of the Magistrate in accordance with sub-section (1), the Corporation may hear the person concerned and thereupon determine whether their order for stopping the work shall remain in force or shall be suspended until the Magistrate makes his decision

CHAPTER XXIV.

LIGHTING AND SCAVENGING, AND REGULATION OF PUBLIC BATHING AND WASHING

Lighting

366. (1) The Corporation shall—

(a) take measures for lighting, in a suitable manner, the public streets, squares and

provision for lighting of public streets, squares, gardens, markets and buildings

(Part V.—Chapter XXIV.—*Lighting and scavenging, and regulation of public bathing and washing.*
—Sections 367, 368.)

gardens and municipal markets and all buildings vested in the Corporation ;

(b) procure, erect and maintain such number of lamps, lamp-posts and other appurtenances as may be necessary for such lighting; and

(c) cause such lamps to be lighted by means of oil, gas, electricity or such other light as the Corporation may from time to time determine.

(2) The Corporation may place and maintain—

(i) electric wires or gas-pipes for the purpose of lighting such lamps under, over, along or across any immovable property, and

(ii) posts, poles, standards, stays, struts, brackets, tunnels, culverts or any other suitable contrivance for carrying, suspending, or supporting such lamps, gas-pipes or electric wires in or upon any immovable property :

Provided that such pipes, wires, posts, poles, standards, stays, struts, brackets, tunnels, culverts or other contrivance shall be so placed as to occasion as little damage, detriment, inconvenience or nuisance to any person as the circumstances permit.

(3) Notwithstanding anything contained in the Indian Electricity Act, 1910, the Corporation shall not be liable except on the ground of negligence to any claim for compensation for any damage, detriment, inconvenience or nuisance caused by them, or by any one employed by them, in the exercise of any of the powers conferred by sub-section (2).

Provision for lighting of private street by Corporation on application of owner.

367. The Corporation, on the application of the owners of a private street, may enter into arrangements for the lighting of such street on such terms as may be agreed upon between them and such owners, and shall thereafter in respect of such street have all the powers conferred by section 366.

Streets, etc., not to be constructed over municipal gas-pipe without permission.

368. (1) Without the written permission of the Corporation—

(a) no private street shall be constructed, and

(b) no building, wall or other structure shall be newly erected,

over any gas-pipe belonging to the Corporation.

of 1923.]

(Part V—Chapter XXIV.—*Lighting and scavenging, and regulation of public bathing and washing*—Sections 369—371)

(2) If any private street be so constructed, or if any building, wall or structure be so erected, the Corporation may cause the same to be removed or otherwise dealt with as they may think fit,

and the expenses incurred by the Corporation in so doing shall, in the discretion of the Corporation, be paid by the owner thereof or by the person offending

Keeping of animals.

369. No person shall—

Prohibition as to keeping animals

- (a) without the written permission of the Corporation, or otherwise than in conformity with the terms of such permission, keep any swine in any part of Calcutta,
- (b) keep any animal on his premises so as to be a nuisance or dangerous, or
- (c) feed any animal, or suffer or permit any animal to be fed or to feed, with or upon sewage or offensive matter

370. Any swine found straying may be forthwith destroyed, and the carcasses thereof disposed of, as the Executive Officer may direct, and no claim shall lie for compensation for any swine so destroyed.

Destruction of stray swine

Scavenging

371. (1) The Corporation shall provide or appoint, in proper and convenient situations, public receptacles, depôts and places for the temporary deposit or final disposal of rubbish, offensive matter, sewage and the carcasses of dead animals accumulating in Calcutta.

Provision or appointment of receptacles, depôts and places for deposit or disposal of rubbish, offensive matter, sewage and carcasses

Provided as follows—

- (i) the said things shall not be finally disposed of in any place or manner in which the same have not heretofore been so disposed of, without the sanction of the Corporation, or in any place or manner which the Local Government may disallow,
- (ii) the powers conferred by this section shall be exercised in such manner as to create the least practicable nuisance.

(2) Any land that may be required in a *bustee* for the temporary deposit of rubbish, offensive

(Part V.—Chapter XXIV.—*Lighting and scavenging, and regulation of public bathing and washing.*
—Sections 372, 373.)

sewage or carcasses taken from land or buildings in such *bustee* shall be provided by the owner of the *bustee*.

(3) All things deposited in receptacles, depôts or places provided or appointed under this section shall be the property of the Corporation.

Collection and temporary deposit of rubbish and offensive matter by occupiers of premises.

372. (1) The Corporation may, by public notice, direct that all rubbish and offensive matter accumulating in any premises in any street or quarter of Calcutta specified in the notice shall be collected by the occupier of such premises and deposited in a box, basket or other receptacle, of a kind prescribed by the Corporation, to be provided by such occupier and kept near the entrance to, or, where open space is available, within, the premises.

(2) The Corporation may cause public dust-bins or other convenient receptacles to be provided at suitable intervals and in proper and convenient situations in streets or quarters in respect of which no notice issued under sub-section (1) is for the time being in force,

and may, by public notice, direct that all rubbish and offensive matter accumulating in any premises, the entrance to which is situated within fifty yards of any such receptacle, shall be collected by the occupier of such premises and deposited in such receptacle.

(3) The Corporation may, by public notice, direct that all rubbish and offensive matter accumulating in any premises in any street or quarter in respect of which no notice issued under sub-section (1) or sub-section (2) is for the time being in force, shall be collected by the occupier of such premises and deposited in lump in the street on which such premises abut or in some portion of such premises.

(4) In any notice issued under any of the foregoing sub-sections, the Corporation shall prescribe the hours within which rubbish and offensive matter shall be deposited under this section.

Collection and removal of rubbish and offensive matter accumulating in the course of business or building operations.

373. Notwithstanding anything contained in section 372, when building operations are being carried on in any premises, or when any premises are used for carrying on any manufacture, trade or business, the Corporation may,—

(a) by written notice, direct the occupier of such premises to collect all rubbish and offensive matter accumulating on such premises in

of 1923.]

(Part V—Chapter XXIV—*Lighting and scavenging, and regulation of public bathing and washing*
—Sections 374—377.)

the course of such operations, manufacture trade or business and to remove the same, at such times, in such carts or receptacles, and by such routes as may be specified in the notice, to a public receptacle depot or place provided or appointed under section 371, or

- (b) after giving such occupier written notice of their intention to do so, themselves cause all the rubbish and offensive matter to be removed, and charge the occupier for such removal such periodical fee as may be specified in the notice

Provided that the requisition under clause (a) shall not be enforced by the Corporation, nor shall action be taken by them under clause (b), until the occupier of the premises has been given an opportunity of being heard within such time as may be specified in the written notice that is served on him

374. The Corporation shall maintain an establishment for the removal of sewage from privies and urinals which are not connected with a sewer, and of offensive matter and rubbish from receptacles, depots and places provided or appointed under section 371, or under any by-law made under this Act, and for the daily cleansing and scavenging of streets and premises

Establishment for removal of sewage, etc., and the scavenging of streets.

375. If in any case it is proved that rubbish, offensive matter or sewage has been deposited in any place in contravention of any by-law made under this Act, from some land or building, it shall be presumed, unless and until the contrary is proved, that the offence has been committed by the occupier of the said land or building

Presumption as to offender

376. No *mehiter* or other servant of the Corporation, who is employed to remove or otherwise deal with sewage, offensive matter or rubbish, shall, without the permission of the Corporation, withdraw from his duties without giving written notice, not less than one month previously, of his intention so to withdraw.

Notice to be given by *mehiters*, etc., before withdrawing from work

Public bathing and washing.

377. The Corporation may from time to time—

- (a) construct suitable places for use by the public as swimming baths or for bathing,

Construction of places for public bathing, &c.

(Part V.—Chapter XXIV.—Lighting and scavenging, and regulation of public bathing and washing.—Chapter XXV.—Municipal railways.—Section 378.)

or for washing animals, or for washing or drying clothes, and

- (b) prohibit, by public notice, the use by the public, for any of the said purposes, of any place not so constructed.

CHAPTER XXV.

MUNICIPAL RAILWAYS.

Power to Corporation to construct, lease and otherwise deal with railways.

378. With the previous sanction of the Governor General in Council, the Corporation may—

- (a) upon any of the public streets in Calcutta, or upon any land within or without Calcutta which is vested in the Corporation, construct or maintain any railway which may appear to them to be useful or necessary for the removal of rubbish and offensive matter or for any of the other purposes of this Act,
- (b) use and employ upon any such railway locomotive engines or other motive power, and carriages and wagons to be drawn or propelled thereby,
- (c) carry and convey passengers and goods upon any such railway,
- (d) make such reasonable charges in respect of such passengers or goods as the Corporation may from time to time determine,
- (e) from time to time enter into any contract with any person for the construction, maintenance and working of any such railway within or without Calcutta,
- (f) from time to time enter into any contract with any person for the passage over any such railway of locomotive engines or other motive power, carriages and wagons belonging to or controlled by such person, upon the payment of such tolls or rent, and under such conditions and restrictions, as may be mutually agreed upon, and
- (g) lease any such railway to any person, upon such terms and under such conditions and restrictions as may be mutually agreed upon.

of 1923.]

(Part V—Chapter XXV—Municipal railways—
Chapter XXVI—Inspection and regulation of
premises, and of factories, trades and places of
public resort—Sections 379—381)

379. Any person to whom a railway is leased under clause (g) of section 378 shall, subject to the terms, conditions and restrictions of his lease, have the same powers for—

Certain powers
to lessee of Cor-
poration a rail-
way

- (i) maintaining the railway,
- (ii) using and employing thereupon locomotive engines or other motive power and carriages and wagons to be drawn or propelled thereby, and
- (iii) carrying and conveying thereupon passengers and goods and making charges in respect thereof,

as the Corporation would have had if the railway had not been so leased

CHAPTER XXVI.

INSPECTION AND REGULATION OF PREMISES, AND OF FACTORIES, TRADES AND PLACES OF PUBLIC RESORT

Premises generally.

380. Subject to the provisions of this Act, land and buildings shall respectively be inspected, cleansed, secured, repaired, drained, or otherwise regulated in accordance with the rules contained in Schedule XVIII.

Inspection and
regulation of
premises

381. (1) If, for any reason, any building or portion of a building intended for, or used as, a dwelling-place appears to the Corporation to be unfit for human habitation, they may require the owner or occupier of such building to make such alterations as they think necessary in the building in order to make it fit for human habitation, if they consider that this can be done, but whether they think it can be made fit for human habitation or not, they may, in either case, after giving the owner or occupier an opportunity of being heard, apply to a Magistrate to prohibit the further use of such building or portion thereof for such purpose;

Procedure in
case of buildings
deemed unfit for
human habita-
tion

and the Magistrate shall serve a notice on such owner or occupier so as to give him an opportunity of being heard in the Court, and, after such inquiry as he thinks fit to make, may, by written order,

(Part V.—Chapter XXVI.—Inspection and regulation of premises, and of factories, trades and places of public resort.—Section 382.)

prohibit the further use thereof, or may pass such other order as he may deem just and proper.

(2) When any such prohibition has been made, the Corporation may—

- (i) inspect such building by day or by night, and
- (ii) take such order as may be necessary to preclude the further use of the same, or of the portion specified in the prohibition, as a human habitation.

(3) When any such prohibition has been made, no owner or occupier of such building shall use, or suffer the same, or the portion specified in the prohibition, to be used for human habitation until—

- (a) the Executive Officer certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction, or
- (b) a Magistrate, by written order, withdraws the prohibition.

(4) The Corporation shall prepare and maintain at the Municipal office a list of buildings in respect of which the Magistrate has passed an order under subsection (1), and such list shall contain such particulars as to the action taken by the Corporation or the owner in pursuance of such order or otherwise, as the Executive Officer shall think fit and shall be open to inspection by the public free of charge.

382. (1) When a Magistrate has prohibited the use of a building for human habitation under section 381 and such prohibition has been in force for three months, the Corporation shall take into consideration the question of the demolition of such building, and shall give notice of the time (being some time not less than one month after the service of the notice) and place at which such question will be considered to the owner and to the occupier (if any) of the building,

and the said owner and occupier shall be entitled to be heard when the question is so taken into consideration.

(2) If, upon such consideration, the Corporation are of opinion that the building has not been rendered fit for human habitation, and that the necessary steps

Power to Corporation to require demolition of, or execution of work on, building unfit for human habitation.

of 1923.]

(Part V — Chapter XXVI — Inspection and regulation of premises, and of factories, trades and places of public resort — Section 383)

are not being taken with all due diligence to render it so fit,

they shall cause a written notice to be served on the said owner and occupier and also to be put on some conspicuous part of such building, requiring such owner and occupier to demolish the building or any portion thereof, as the case may be, or to execute such work as in the opinion of the Corporation may be necessary to render the building fit for human habitation

(3) If such owner or occupier undertakes to execute with due diligence the work necessary to render the building fit for human habitation, and the Corporation consider that it can be so rendered fit for human habitation,

the Corporation may postpone the operation of the said notice for such time as they think sufficient for the purpose of giving the said owner or occupier an opportunity of executing the necessary work

383. (1) The owner of any building shall, within a period of a fortnight after receipt of a written notice from the Corporation requiring him to do so, submit to the Corporation a signed statement of the following particulars with respect to such building or any part thereof, namely,—

Power to Corporation to call for statement of accommodation

(a) the total number of rooms in the building,

(b) the length, breadth and height of each room and

(c) the name of the person to whom he has let the building or each part of the building occupied as a separate tenement, with the particulars specified in clauses (a) and (b) in regard to each such part

(2) The occupier of any building or of any part of any building occupied as a separate tenement shall, on like notice and within the like period, submit a signed statement of the following particulars with respect to the building or part thereof, as the case may be, which is in his occupation, namely,—

(i) the total number of persons dwelling in such building or part, and

(ii) the total number of adults and the total number of children occupying each room used for sleeping.

(Part V.—Chapter XXVI.—*Inspection and regulation of premises, and of factories, trades and places of public resort.*—Sections 384, 385.)

Abatement of overcrowding in dwelling-house or dwelling-place.

384. (1) If it comes to the knowledge of the Corporation from a statement received under section 383, or after an inspection made under rule 1 of Schedule XVIII, or in any other way, that a dwelling-house, or a public building or hut which is used as a dwelling-place, or any room in any such house, public building or hut, is so overcrowded as to endanger the health of the inmates thereof, they may require the owner to abate such overcrowding in the manner specified in such requisition. After giving the owner an opportunity of being heard in regard to such requisition, the Corporation may direct him within such time as they may fix to take such measures as they think fit to abate such overcrowding. If the owner fails to take such measures, the Corporation may apply to the Magistrate to abate such overcrowding.

The Magistrate, after such inquiry as he thinks fit to make, may, by written order, require the owner of the building or room, within such time as the Magistrate may prescribe in the said order, to abate such overcrowding by reducing the number of lodgers, tenants or other inmates of the building or room, or may pass such other order as he may deem just and proper.

Every such order shall be binding and operative on the owner as well as on the occupier, and every occupier shall, on the written requisition of the Corporation informing him of the order, be bound to vacate the same within such time as may be specified in such requisition.

(2) If the owner of any building or room referred to in sub-section (1) has sub-let the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building or room.

Factories, trades and places of public resort.

Factory, etc., not to be newly established, etc., without permission of the Corporation.

385. (1) No person shall, without the previous written permission of the Corporation, newly establish in any premises, or materially alter, enlarge or extend, any factory, workshop or workplace in which it is intended to employ steam, electricity, water or other mechanical power.

of 1923.]

(Part V—Chapter XXVI—Inspection and regulation of premises, and of factories trades and places of public resort—Section 386)

(2) The Corporation may refuse to give such permission, if they are of opinion that the establishment, alteration, enlargement or extension of such factory, workshop or workplace in the proposed position would be objectionable by reason of the density of the population in the neighbourhood thereof or would be a nuisance to the inhabitants of the neighbourhood

386. (1) No person shall use or permit to be used any premises for any of the following purposes without or otherwise than in conformity with the terms of a license granted by the Corporation in this behalf, namely,—

Premises not to be used for certain purposes without a license

(a) any of the purposes specified in Schedule XIX,

(b) any purpose which is, in the opinion of the Corporation, dangerous to life, health or property, or likely to create a nuisance,

(c) keeping horses, cattle or other four-footed animals for sale or hire or for sale of the produce thereof, or

(d) storing for other than his own domestic use or selling timber, firewood charcoal, coal, coke, ashes, hay, grass, straw or any other combustible thing

Provided that the Corporation may decline that premises in which the aggregate quantity of combustible articles stored for sale does not exceed such quantity as the Corporation may prescribe in respect of any such article shall be exempted from the operation of clause (d)

(2) In prescribing the terms of a license granted under this section for the use of premises as mills or non yards or for similar purposes, the Corporation may, when they think it practicable, require the licensee to provide a space or passage within the enclosure of the premises for carts for loading and unloading purposes

(3) The Corporation shall fix a scale of fees to be paid in respect of premises licensed under sub-section (1)

Provided that no such fee shall exceed five hundred rupees.

(Part V.—Chapter XXVI.—Inspection and regulation of premises, and of factories, trades and places of public resort.—Sections 387—389.)

Power to Corporation to prevent use of premises in particular areas for purposes referred to in section 386.

387. (1) The Corporation may give public notice of their intention to declare that in any area specified in the notice no person shall use any premises for any of the purposes referred to in section 386, sub-section (1), which may be specified in such notice.

(2) No objections to any such declaration shall be received after a period of one month from the publication of such notice.

(3) The Corporation shall consider all objections received within the said period, giving any person affected by the said notice an opportunity of being heard by them during such consideration, and may thereupon make a declaration in accordance with the notice published under sub-section (1), with such modifications (if any) as they may think fit, but not so as to extend its application.

(4) Every such declaration shall be published in the *Calcutta Gazette*, and in such other manner as the Corporation may determine, and shall take effect from the date of such publication in the *Calcutta Gazette*.

(5) No person shall in any area specified in any such declaration use any premises for any of the said purposes.

Discontinuance of use of premises for particular purpose, when kept so as to be a nuisance.

388. Whenever a Magistrate imposes a fine on any person under section 488 for using or permitting the use of any premises for any purpose in contravention of section 386, sub-section (1), he may, if it is proved to his satisfaction that such premises are kept in such a state as to be a nuisance, also direct that they shall no longer be used for the said purpose.

Prohibition of fouling of water in carrying on trade or manufacture.

389. (1) No person engaged in any trade or manufacture specified in Schedule XIX shall—

(a) wilfully cause or suffer to flow or be brought into any tank, reservoir, cistern, well, duct or other place for the storage or accumulation of water belonging to the Corporation, or into any drain or pipe communicating therewith, any washing or other substance produced in the course of such trade or manufacture; or

(b) wilfully do any act connected with any such trade or manufacture whereby the water in any such tank, reservoir, cistern, well, duct or other place is fouled or corrupted.

of 1923.]

(Part V—Chapter XXVI—Inspection and regulation of premises, and of factories, trades and places of public resort—Sections 390, 391)

(2) The Corporation may, after giving not less than twenty-four hours' previous notice in writing to the owner or to the person who has the management or control of any works, pipes or conduits connected with any such manufacture or trade, lay open and examine the said works, pipes or conduits

(3) If, upon such examination, it appears that sub-section (1) has been contravened by reason of anything contained in or proceeding from the said works, pipes or conduits, the expenses of such laying open and examination, and of any measure which the Corporation, in their discretion, may require to be adopted for the discontinuance of the cause of such contravention, shall be paid by the owner of the said works, pipes or conduits, or by the person who has the management or control thereof, or through whose neglect or fault the said sub-section has been contravened

(4) If, upon such examination, it appears that there has been no contravention of sub-section (1), the said expenses and compensation for any damage occasioned by the said laying open and examination, shall be paid by the Corporation

390. (1) No person shall, without or otherwise than in conformity with the terms of a license granted by the Corporation in this behalf, keep any eating-house, tea-shop, hotel, boarding-house, bakery, aerated water factory, ice factory or other place where food is sold or prepared for sale

Eating-houses etc. not to be used without license from Corporation

Provided that the fee payable for any such license shall in no case exceed one rupee

(2) The Corporation may at any time cancel or suspend any such license if they are of opinion that the premises covered thereby are not kept in conformity with the conditions of such license or the provisions of any by-law made under section 475, relating to such premises, whether the licensee is prosecuted under this Act or not

391. No person shall, without or otherwise than in conformity with the terms of a license granted by the Corporation in this behalf, keep upon any theatre, circus or other similar place of public resort, recreation or amusement.

Licensing and control of theatres, circuses and places of public amusement.

Provided that this section shall not apply to private performances in any such place.

(Part V.—Chapter XXVII.—Markets, bazars and slaughter-places.—Sections 392—395.)

CHAPTER XXVII.

MARKETS, BAZARS AND SLAUGHTER-PLACES.

392. (1) The Corporation may—

- (a) construct, purchase or take on lease any land or building for the purpose of establishing a new municipal market or a new municipal slaughter-house or municipal stock-yard, or of extending or improving any existing municipal market, municipal slaughter-house or municipal stock-yard, and
- (b) from time to time build and maintain such municipal markets, municipal slaughter-houses and municipal stock-yards and such stalls, shops, sheds, pens and other buildings or conveniences for the use of persons carrying on trade or business in, or frequenting, such markets, slaughter-houses or stock-yards, and provide and maintain in such municipal markets such buildings, places, machines, and correct weights, scales and measures for weighing and measuring goods sold therein, as they may think fit.

(2) Municipal slaughter-houses and municipal stock-yards may be situated in or, with the sanction of the Local Government, without Calcutta.

393. The Corporation may at any time close any municipal market, municipal slaughter-house or municipal stock-yard or any portion thereof; and the premises occupied for any market, slaughter-house or stock-yard or portion so closed may be disposed of as the property of the Corporation.

394. (1) No person shall, without a license from the Corporation, sell or expose for sale any animal or article in any municipal market:

Provided that no fee shall be charged for such license.

(2) Any person contravening sub-section (1) may be summarily removed from such market by any municipal officer or servant.

395. (1) The Corporation shall from time to time determine whether the establishment of new private markets shall be permitted in Calcutta or in any specified portion thereof.

Power to Corporation to provide and maintain municipal markets, slaughter-houses and stock-yards.

Power to Corporation to close municipal markets, slaughter-houses and stock-yards.

Power to Corporation to license vendors in municipal markets.

Power to Corporation to permit opening of new private markets.

of 1923.]

(Part V—Chapter XXVII—Markets, bazars and slaughter places—Section 396)

(2) No person shall establish a new private market for the sale of, or for the purpose of exposing for sale, animals intended for human food, or any other article of human food, except with the sanction of the Corporation

(3) When the establishment of a new private market has been so sanctioned, the Corporation shall cause a notice of such sanction to be affixed in the English, Bengali, Hindi and Urdu languages on some conspicuous spot on or near the building or place where such market is to be held

396. (1) No person shall, without or otherwise than in conformity with the terms of a license granted by the Corporation in this behalf,—

Power to Corporation to license private markets, slaughter-houses and stock yards

- (a) keep open any private market, or wilfully or negligently permit any place to be used as a private market,
- (b) use any place in Calcutta as a slaughter-house or stock-yard or for the slaughtering of any animal intended for human food, or
- (c) use any place without Calcutta, whether as a slaughter-house or otherwise, for the slaughtering of any animal intended for human food to be consumed in Calcutta;

Provided as follows —

- (i) the Corporation shall not refuse, suspend or cancel any license for keeping open a private market for any cause other than the failure of the owner thereof to comply with some provision of this Act, or with some by-law made under section 178, at the time in force;
- (ii) nothing in the foregoing provisions of this section shall be deemed to restrict the slaughter of any animal in any place on the occasion of any festival or ceremony;
- (iii) nothing in the foregoing provisions of this section shall be deemed to prevent the Corporation from setting apart places for the sacrifice of animals in accordance with religious custom, and for the sale of the flesh thereof.

(2) Every such license shall be renewable annually on the certificate of the Health Officer.

(Part V.—Chapter XXVII.—Markets, bazars and slaughter-places.—Sections 397–399.)

(3) There shall be paid for every license granted under sub-section (1) and in respect of every place set apart under proviso (iii) to that sub-section such annual fee as may be prescribed by the Corporation.

(4) If any private market or any place set apart under proviso (iii) to sub-section (1) be closed for more than half of any year for which a fee has been paid, the Corporation may refund the whole or any portion of the fee so paid for that year.

(5) When the Corporation have refused, suspended or cancelled any license to keep open a private market, they shall cause a notice of their having done so to be affixed in the English, Bengali, Hindi and Urdu languages on some conspicuous spot on or near the building or place where such market has been held.

397. Whenever a Magistrate imposes a fine on any person under section 488 for keeping open a private market or permitting any place to be used as a private market in contravention of section 396, sub-section (1), he shall, on the application of the Corporation, but not otherwise, also direct that such market be closed and appoint persons, or take other steps, to prevent the place being used as a market.

398. No person shall use as a market any place in respect of which a direction has been given by a Magistrate under section 397.

399. The Corporation may, by written notice, require the owner or occupier of any private market, *bazar*, private slaughter-house or place set apart under proviso (iii) to sub-section (1) of section 396—

- (a) to cause the whole or any portion of the floor of the market-building, market-place, *bazar*, slaughter-house or place set apart as afore-said to be raised or paved with dressed stone or other suitable material,
- (b) to cause such drains to be made in or from the market-building, market-place, *bazar*, slaughter-house or place set apart as afore-said, of such material, size and description, at such level, and with such outfall as to the Corporation may appear necessary, and
- (c) to cause any shop, stall, shed or other structure in any such private market to be altered or improved in such manner as the Corporation may consider necessary.

Power to Magistrate to close unauthorized private market.

Prohibition of use of market so closed.

Power to Corporation to require paving and draining of private markets, etc., and to alter structures in such markets.

of 1923.]

(Part V —Chapter XXVII—Markets, bazars and slaughter-places —Sections 400, 401)

400. (1) The Corporation may—

- (a) define or determine the limits of any private market or *bazar*, or declare what portions of such market or *bazar* shall be made part of the existing approaches, roads, passages and ways to and in such market or *bazar*, and,
- (b) after hearing the owner or occupier of such market or *bazar*, by written notice, require such owner or occupier to—

- (i) lay out, construct, alter, elev, widen, pave, drain and light, to the satisfaction of the Corporation, such approaches, roads, passages and ways to and in such market or *bazar*,
- (ii) provide such conveniences for the use of persons resorting to such market or *bazar*, as the Corporation may think fit, and
- (iii) provide adequate ventilation and lighting of the market building or any portion thereof, including shops and stalls, to the satisfaction of the Corporation

(2) The Corporation, after hearing the owner or occupier of any private market or *bazar* may, by written notice, require such owner or occupier to maintain in proper order the approaches, roads, passages and ways to and in such market or *bazar*, and such other conveniences as are provided for the use of persons resorting thereto

(3) The Corporation shall cause a notice of the limits of any market or *bazar*, defined under subsection (1), to be affixed in the English, Bengali, Hindi and Urdu languages on some conspicuous spot on or near the building or place where such market or *bazar* is held

401 The Corporation may—

- (a) charge such stallages, rents and fees—

- (i) for the occupation or use of any stall, shop, standing, shed or pen in a municipal market, municipal slaughter-house or municipal stock-yard,

Power to Corporation to define limits of market and to require provision and maintenance of market approaches etc

Power to Corporation to levy charges, rents, etc., in municipal markets, etc

[Ben. Act III]

(Part V.—Chapter XXVII.—Markets, bazars and slaughter-places.—Sections 402, 403.)

(ii) for the right to expose goods for sale in a municipal market,

(iii) for the use of machines, weights, scales and measures provided under clause (b) of sub-section (1) of section 392 for any municipal market, and

(iv) for the right to slaughter animals in any municipal slaughter-house, and for the feed of such animals before they are ready for slaughter,

as may from time to time be fixed by them in this behalf; or,

(b) farm the stallages, rents and fees leviable as aforesaid, or any portion thereof, for such period as they may think fit; or

(c) put up to public auction, or dispose of by private sale, the privilege of occupying or using any stall, shop, standing, shed or pen in a municipal market, municipal slaughter-house or municipal stock-yard, for such period and on such conditions as they may think fit.

By-laws and table of charges to be posted up in markets and slaughter-houses.

402. (1) A printed copy of the by-laws made under section 478 and of the table of stallages, rents and fees, if any, in force in any market or slaughter-house under section 401, in the English, Bengali and Urdu languages, shall be affixed on some conspicuous spot in the market-building, market-place or slaughter-house.

(2) No person shall without lawful authority destroy, pull down, injure or deface any copy of any by-law or table so affixed.

Power to Corporation to expel person contravening by-laws.

403. (1) The Corporation, after giving the parties concerned an opportunity of being heard, may—

(a) expel from any municipal market, municipal slaughter-house or municipal stock-yard, for such period as they may think fit, any person who or whose servant has been

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(Part V—Chapter XXVII—Markets, bazars and slaughter-places—Section 401)

convicted of contravening any by-law made under section 178, at the time in force in such market, slaughter-house or stock-yard

(b) prevent such person, by himself or his servants, from further carrying on any trade or business in such market, slaughter-house or stock-yard or occupying any stall, shop, standing, shed, pen or other place therein, and

(c) determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place

(2) If the tenant, or the agent of the tenant, of the owner or lessee of any private market or slaughter-house has been convicted for contravening any by-law made under section 178 and specified by the Corporation in this behalf, the Corporation may require such tenant or agent to remove himself from such market or slaughter-house, within such time as may be mentioned in the requisition, and if he fails to comply with such requisition, he may, in addition to any penalty which may be imposed on him under this Act, be summarily removed from such premises by the owner or lessee thereof or by the servants of such owner or lessee

(3) If it appears to the Corporation that in any such case the owner or lessee is acting in collusion with a tenant or agent convicted as aforesaid who fails to comply with a requisition issued under sub section (2), the Corporation may, if they think fit, cancel the license of such owner or lessee in respect of such premises

404. Whenever an emergency arises which in the opinion of the Corporation makes it advisable to open depôts or shops for the purpose of trading in food-stuffs, fuel, cloth and other similar necessities of life, they may with the previous sanction of the Local Government and subject to such conditions and limitations as the Local Government may prescribe, open such depôts or shops for any such purpose

Depôts or shops
for trading
in food stuffs,
etc., in cases of
emergency

(Part V.—Chapter XXVIII.—Food and Drugs.—
Sections 405, 406.)

CHAPTER XXVIII.

FOOD AND DRUGS.

Sale of food and drugs.

Licensing of
butchers and of
sale of meat, etc.,
outside market.

405. (1) No person shall, without or otherwise than in conformity with the terms of a license granted by the Corporation in this behalf,—

- (a) carry on in Calcutta, or at any municipal slaughter-house without Calcutta, the trade or business of a butcher; or
- (b) sell or expose or hawk about for sale any four-footed animal, or any meat or fish intended for human consumption, in any place other than a municipal market or a private market.

(2) Nothing in clause (b) of sub-section (1) shall apply—

- (a) to the sale of meat or fish in any hotel or eating-house for consumption on the premises, or
- (b) to fresh fish sold from, or exposed for sale on, a vessel in which it has been brought direct to Calcutta after being caught at sea or in the river or in private fisheries.

Prohibition of
sale, etc., of
adulterated or
misbranded food
or drugs.

406. (1) No person shall directly or indirectly, himself or by any other person on his behalf, sell, expose or hawk about for sale, or manufacture or store for sale, any food or drug which is adulterated or misbranded :

Provided that an offence shall not be deemed to be committed under this section in the following cases, namely,—

- (a) where any matter or ingredient not injurious to health has been added to any article of food or to any drug because the same is required for the production or preparation thereof, as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the article or to conceal the inferior quality thereof; or

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(Part V—Chapter XXVIII—Food and drugs—
Section 407)

- (b) where any article of food or any drug is unavoidably mixed with some extraneous matter in the process of collection or preparation; or
- (c) where a patent has been granted under any law for the time being in force in respect of any article of food, and the article is sold in the state required by the specification of the patent.

(2) In any prosecution under this section it shall be no defence to allege that the vendor, manufacturer or store was ignorant of the nature, substance or quality of the article sold, exposed, hawked about for sale, or manufactured or stored for sale, by him.

(3) In any prosecution under this section the Court shall, unless and until the contrary is proved, presume that any article of food or any drug found in the possession of a person who is in the habit of manufacturing or storing like articles has been manufactured or stored for sale by such person.

407. (1) No person shall directly or indirectly, himself or by any other person on his behalf, sell, expose or hawk about for sale, or manufacture or store for sale, any of the following articles, namely,—

Prohibition of sale etc., of certain articles which are not of the prescribed standard of purity

- (a) milk (other than condensed or desiccated milk in hermetically-closed receptacles),
- (b) butter,
- (c) ghee,
- (d) wheat flour,
- (e) mustard oil,
- (f) tea,
- (g) edible oil or fat, and
- (h) any other article of food or any drug which may be notified by the Local Government in that behalf,

unless the following conditions are fulfilled, namely,—

- (i) in the case of milk (other than condensed or desiccated milk in hermetically-closed receptacles)—

the animal from which the milk is derived shall be distinctly stated in such manner as the Corporation may, by general or special order, require, and the article sold, exposed or hawked about for sale, or

(Part V.—Chapter XXVIII:—Food and drugs.—
Section 407.)

stored for sale, as the case may be, shall be the natural secretion from the udder of such animal, from which no ingredient has been extracted and to which no water or other substance (including any preservative) has been added, and shall not contain a less proportion of non-fatty solids and of fat than such as the Local Government may prescribe;

(ii) in the case of butter—

it shall be exclusively derived from milk or cream (other than condensed or desiccated milk, or cream), or both, with or without salt or other preservative and with or without the addition of colouring matter, such preservative or colouring matter being of such a nature and in such quantity as not to render the article injurious to health, and shall fulfil such conditions as may be prescribed by the Local Government;

(iii) in the case of *ghee*—

it shall contain only substances, other than curds, which are derived exclusively from the milk of cows or of buffaloes, and shall fulfil such conditions as may be prescribed by the Local Government;

(iv) in the case of wheat flour—

it shall not contain any substance which is not derived exclusively from wheat;

(v) in the case of mustard oil—

it shall be derived exclusively from mustard seed;

(vi) in the case of tea, it shall be the leaves and leaf buds of species of *Thea*, prepared by fermenting, drying and firing; it shall not contain any tea which has been in any measure deprived of its proper quality, strength or virtue by steeping, infusion, decoction or other means, or any foreign matter;

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(Part V—Chapter XXVIII—Food and drugs.—
Section 408)

(vi) in the case of edible oil or fat, it must always conform to the standard prescribed for the same, provided that if a declaration be made that it is not for human consumption, it is denatured in such a way that it can be easily detected by sight or smell, and

(vii) in the case of any food or drug notified by the Local Government under clause (h)—

it shall fulfil such conditions as may be prescribed by the Local Government in regard to such food or drug in such notification

(2) No person shall directly or indirectly, himself or by any other person on his behalf, sell, expose or hawk about for sale, or manufacture or store for sale, anything which is similar to any of the articles specified in clauses (a), (b), (c), (d), (e), (f) and (g) of sub-section (1), or to any article notified by the Local Government under clause (h) of that sub-section under a name which in any way resembles the name of such article

(3) In any prosecution under this section it shall be no defence to allege that the vendor, manufacturer or store was ignorant of the nature, substance or quality of the article sold, exposed or hawked about for sale, or manufactured or stored for sale, by him

(4) In any prosecution under this section the Court shall, unless and until the contrary is proved, presume that any of the articles specified in clauses (a), (b), (c), (d), (e), (f) and (g) of sub-section (1), or any article notified by the Local Government under clause (h) of that sub-section, found in the possession of a person who is in the habit of manufacturing or storing like articles, has been manufactured or stored for sale by such person

408. (1) Every manufactory of mustard oil or other edible oils within Calcutta shall be registered by the owner or the person in charge thereof in the Corporation office in such manner as the Corporation may from time to time direct

Registration of
manufactory.

(2) Every owner or person in charge of a manufactory of mustard oil or other edible oils, and every wholesale dealer in such substances, shall keep a register in the form prescribed by the Corporation,

(Part V.—Chapter XXVIII.—Food and drugs.—
Sections 409—412.)

showing the quantity and destination of each consignment of such substances sent out from his manufactory or place of business, and this register shall be open to inspection by any officer duly authorized by the Corporation in this behalf.

Inspection of
manufactories.

409. Any officer duly authorized in this behalf by the Corporation shall have power to enter at all reasonable times any manufactories registered under section 408 and to inspect any process of manufacture or treatment used therein and to take samples for analysis of any mustard oil or other edible oils or of any article capable of being used in the manufacture, treatment or adulteration of any such article as aforesaid.

Prohibition of
adulterants in
places where
butter, ghee, etc.,
are manufactured
or stored.

410. (1) No person shall keep or permit to be kept in any shop or place in which milk is stored or in any manufactory, shop or place, in which butter, ghee, wheat flour, mustard oil, tea, edible oil or fat, or any article notified by the Local Government under clause (h) of sub-section (1) of section 407 is manufactured or stored, any substance intended to be used for the adulteration of such milk, butter, ghee, wheat flour, mustard oil, or other article.

(2) If any article capable of being so used is found in any such manufactory, shop, or place, the Court shall, unless and until the contrary is proved, presume, in any prosecution under this section, that it is intended to be used for the purposes of adulteration.

Receptacles for
separated or
skimmed condensed
milk to be
marked.

411. No person shall sell or expose or hawk about for sale any tin or other receptacle containing condensed milk which has been separated or skimmed, unless such tin or receptacle bears a label on which and on its wrapper (if any) it is clearly indicated, both in English and in Bengali, that the milk has been separated or skimmed and is not suitable for feeding infants under one year of age.

Prohibition of
sale of diseased
animals or
unwholesome
articles intended
for human food.

412. (1) No person shall sell, store for sale, expose or hawk about for sale, or keep for sale, any animal intended for human consumption which is diseased, or any food or drug intended for human consumption, or manufacture any such food or drug, which is unsound, unwholesome, or unfit for human food.

(2) In any prosecution under this section the Court shall, unless and until the contrary is proved, presume that any animal, food, or drug found in the possession of a person who is in the habit of keeping animals of that class intended to be used for human

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(Part V—Chapter XXVIII—Food and drugs.—
Sections 413—415)

consumption, or of keeping or manufacturing such food or drug for the purpose of human consumption, has been so kept or manufactured, as the case may be, for sale by such person

413. (1) No person shall keep any shop or place for the retail sale of drugs, not being also articles of ordinary domestic consumption, without a license from the Corporation

Licensing of shops and places for retail sale of drugs

(2) The person to whom such license is granted in respect of any shop or place shall display it in some conspicuous part of such shop or place

414. The Local Government may make rules—

Power to Local Government to make rules as to compounders

- (a) prescribing an educational course for candidates for compounders' certificates,
- (b) prescribing a fee to be paid by persons seeking admission to a Government medical school for the purpose of undergoing such educational course,
- (c) regulating the public examination of candidates for compounders' certificates, and prescribing the fee to be paid and the conditions to be observed by persons seeking admission to any such examination,
- (d) regulating the grant of compounders' certificates to persons passing any such examination,
- (e) regulating the registration of certificates so granted,
- (f) permitting any person having such qualifications as may be prescribed in this behalf in the rules to compound, mix, prepare, dispense or sell drugs without obtaining such a certificate, and
- (g) authorizing the cancellation of any certificate granted, or the withdrawal of any permission given, under the said rules, to any person who is proved in the course of a judicial trial to have made a serious mistake, through ignorance or carelessness in the compounding, mixing, preparation, dispensing or selling of drugs

415. (1) No person shall compound, mix, prepare, dispense, or sell any drug in any shop or place licensed under section 413, unless he has a certificate or permission granted under rules made under section 414 and then in force.

Prohibition in respect of compounding of drugs

(Part V.—Chapter XXVIII.—Food and drugs.—
Sections 416—418.)

(2) No owner, occupier or keeper of any shop or place licensed under section 413 shall employ in such shop or place any person contravening the provisions of sub-section (1):

Provided that this sub-section shall not apply to compounders or persons employed by practitioners of indigenous medicines.

(3) If any person contravenes the provisions of sub-section (2), the Magistrate by whom he is tried may cancel the license granted to him under section 413, sub-section (1).

Saving as to
practitioners of
indigenous
medicines.

416. Nothing in section 414 or section 415 shall apply to the sale of drugs used by practitioners of indigenous medicines when such drugs are not sold in a shop or place where medicines are dispensed upon prescription.

Inspection, seizure and destruction of food and drugs.

Power to Health
Officer to inspect
place where un-
lawful slaughter
of animals or
sale of flesh is
suspected.

417. If the Health Officer, or any person authorized by him in this behalf, has reason to believe that any animal intended for human consumption is being slaughtered, or that the flesh of any such animal is being sold or exposed for sale, in any place or manner not duly authorized under this Act, he may, at any time by day or by night, without notice, inspect such place for the purpose of satisfying himself as to whether any provision of this Act or of any rule or by-law made under this Act, at the time in force, is being contravened thereat.

Corporation to
provide for inspec-
tion of animals,
etc., exposed for
sale.

418. (1) The Corporation shall make provision for the constant and vigilant inspection of all animals, food and drugs intended for human consumption which are in course of transit or are exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale,

and shall also make similar provision for the inspection, during the process of manufacture, of any such food or drug.

(2) If, as a result of such inspection as is provided for in sub-section (1), a prosecution is instituted under this chapter, then the burden of proving that any such animal, food or drug was not exposed or hawked about or deposited or brought for sale or for preparation for sale, or was not intended for

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(Part V—Chapter XXVIII—Food and drugs—
Sections 419, 420.)

human consumption, shall rest with the party charged

419. (1) The Health Officer, or any person authorized by him in this behalf, may, at any time by day or by night, inspect and examine any animal, food, or drug referred to in section 418 and any utensil or vessel used for preparing, manufacturing or containing any such food or drug

Power to Health Officer to seize animals, etc., which are diseased, etc

(2) If any such animal appears to the Health Officer, or a person authorized as aforesaid to be diseased, or if any such food or drug appears to him to be unsound, unwholesome, or unfit for human food or for medicine, as the case may be, or to be adulterated, or if any such utensil or vessel is of such kind or in such state as to render any food or drug prepared, manufactured, or contained therein unwholesome or unfit for human food, or for medicine, as the case may be,

he may seize and carry away such animal, food, drug, utensil, or vessel, in order that the same may be dealt with as hereinafter in this chapter provided

Explanation—(1) Meat subjected to the process of blowing, shall be deemed to be unfit for human food

(2) A vessel made of any corrosive metal or material, notified in this behalf by the Local Government as dangerous to health, which is used for the preparation of liquid tea for sale shall be deemed to be of the kind referred to in this sub-section

(3) The Health Officer, or a person authorized as aforesaid, may, instead of carrying away any animal, food, drug, utensil, or vessel seized under sub-section (2), leave the same in such safe custody as he thinks fit in order that the same may be dealt with as hereinafter in this chapter provided, and no person shall remove such animal, food, drug, utensil, or vessel from such custody or interfere or tamper with the same in any way while so detained.

420. (1) When any animal, food, drug, utensil, or vessel is seized under section 419, it may, with the consent of the owner or the person in whose possession it was found, be forthwith destroyed; or,

Destruction of animals, etc., seized under section 419

if such consent be not obtained, then, if any food or drug so seized is of a perishable nature, and is, in the opinion of the Executive Officer, the Health Officer, an Assistant or District Health Officer or any Councillor or Alderman, unsound, unwholesome or unfit for human food or medicine, it may likewise be destroyed.

(Part V.—Chapter XXVIII.—Food and drugs.—
Sections 421, 422.)

(2) The expenses incurred in taking any action under sub-section (1) shall be paid by the person in whose possession such animal, food, drug, utensil, or vessel was at the time of its seizure.

Taking before
Magistrate ani-
mals, etc., seized
under section 419.

421. (1) Any animal, food, drug, utensil, or vessel seized under section 419 which is not destroyed in pursuance of section 420 shall, subject to the provisions of section 419, sub-section (3), be taken before a Magistrate as soon as may be after such seizure.

(2) If it appears to the Magistrate that any such animal is diseased, or that any such food or drug is unsound, unwholesome, or unfit for human food, or for medicine, as the case may be, or is adulterated, or that any such utensil or vessel is of such kind or in such state as is mentioned in section 419, sub-section (2), or is used for preparing, manufacturing or containing such food or drug, he shall cause the same to be destroyed, at the expense of the person in whose possession it was at the time of its seizure or to be otherwise disposed of by the Corporation so, as not to be capable of being used as human food or medicine.

(3) If it appears to the Magistrate that any such animal is not diseased or that any such food or drug is not unsound, unwholesome, or unfit for human food, or for medicine, as the case may be, or is not adulterated, or that any such utensil or vessel is not used for preparing, manufacturing, or containing the same, the person from whose shop or place the animal, food, drug, utensil, or vessel was taken shall be entitled to have it restored to him, and it shall be in the discretion of the Magistrate to award him such compensation, not exceeding the actual loss which he has sustained, as the Magistrate may think proper.

Analysis of food and drugs.

Power to Local
Government to
declare normal
constituents of
any article of
food or drug

422. The Local Government may declare the normal constituents of any article of food or any drug and may determine, by rules in this behalf, what deficiency in any of these constituents, or what addition of extraneous matter or proportion of water in a sample of any article of food or drug, shall, for the purposes of this Act, raise a presumption until the contrary is proved that the article of food or drug is not genuine or is injurious to health; and a public analyst shall have regard to such rules in certifying the result of an analysis under this Act.

of 1923.]

(Part V.—Chapter XXVIII—Food and drugs.—
Sections 423, 424)

423. Any purchaser of an article of food or drug shall be entitled, on payment of such fee as the Corporation may prescribe, to have such article analysed by a public analyst and to receive from him a certificate in the form prescribed in Schedule XX to this Act, of the result of his analysis

Power of purchaser to have article of food or drug analysed

424. (1) If the Health Officer, or any person authorized by him in this behalf, requires the sale to him of any food or drug exposed or intended for sale, and tenders the price for a quantity not more than is reasonably requisite for division and disposal under sub-sections (4) and (5), any person in possession of or exposing the same for sale shall be bound to sell such quantity.

Compulsory sale to Health Officer for purpose of analysis

(2) The Health Officer, or any person authorized by him in this behalf, may require, on tendering the price for it, the sale to him during the process of manufacture, of any quantity of—

- (i) any food, or
- (ii) any drug, or
- (iii) any ingredients used in the manufacture of any food or drug,

not being more than is reasonably requisite for division and disposal under sub-section (4) and sub-section (5), and any person in possession of the said food, drug or ingredients shall be bound to sell such quantity.

(3) The Health Officer, or any person authorized by him in this behalf, may likewise require the surrender to himself, for the purpose of analysis, of such quantity as is reasonably requisite for such process, of any food which is in course of transit in Calcutta or stored in any place in Calcutta for sale as an article for human consumption, and any person in possession of the same shall be bound to surrender such quantity;

and in every such case the price of the food so surrendered shall be payable by the Health Officer or by the person authorized by him, to the owner of the same, if claimed by such owner within one month from the date of the said surrender.

(4) When any sale under sub-section (1) or sub-section (2) is completed, or when any food is surrendered under sub-section (3), the Health Officer, or the person authorized by him in this behalf, or any purchaser who wishes to have an article of food

(Part V.—Chapter XXVIII.—Food and drugs.—
Sections 425, 426.)

analysed under section 423 shall forthwith notify to the seller, or his agent selling the article or the person in possession thereof, as the case may be, his intention to have the same analysed, and shall divide the article into three parts, to be then and there separated, and each part to be marked and sealed or fastened up in any manner which its nature will permit.

(5) The Health Officer, or the person authorized by him in this behalf, or the purchaser referred to in sub-section (4) shall deliver one of the said parts to the seller or his agent, shall retain another for future comparison, and may send the third to a public analyst.

Duty of public
analyst to supply
certificate of
analysis.

425. (1) Every public analyst to whom any article of food has been submitted for analysis under this Act shall deliver to the person so submitting it a certificate in the form prescribed in Schedule XX to this Act, specifying the result of his analysis, and shall send a copy of the same to the Health Officer.

(2) Any document purporting to be such certificate signed by a public analyst shall be sufficient evidence in any inquiry, trial or proceeding under this Act of the result of such analysis:

Provided that any Court before which a case may be pending under this Act, whether exercising original, appellate, or revisional jurisdiction, may, of its own motion, or at the request either of the accused or the complainant, cause any article of food to be sent for analysis to the Director of Public Health, Bengal, or any other officer whom the Local Government may appoint in this behalf, who shall thereupon analyse the same and report the result of such analysis to the said Court, and the said report shall be admissible in evidence in such Court. The expense of such analysis shall be paid by the accused or the complainant, as the Court may, by order, direct.

Vesting of condemned food or drug in Corporation.

Food and drugs
directed to be
destroyed, etc.; to
be property of
Corporation.

426. When any authority directs, in exercise of any powers conferred by this chapter, the destruction of any food or any drug, or the disposal of the same so as to prevent its being used as food or medicine, the same shall thereupon be deemed to be the property of the Corporation.

or 1923.]

(Part V.—Chapter XXIX.—Milk-supply.—
Sections 427, 428.)

CHAPTER XXIX.

MILK-SUPPLY.

427. In addition to the other powers and duties conferred or imposed on them by or under this Act or any other Act, for the time being in force, the Corporation, in their discretion, may—

Special powers
to the Corpora-
tion.

- (i) establish, furnish, and maintain municipal dairies, grazing grounds, cattle-sheds and cow-houses either within or without Calcutta;
- (ii) subject to such terms and conditions as the Corporation may think fit to impose, subsidize by such means as they may consider proper or guarantee the payment from the funds at their disposal of such sums as they may think fit, by way of interest on the capital expended, on the establishment, extension, maintenance, equipment or furnishing of privately owned grazing grounds or private dairies either within or without Calcutta;
- (iii) provide or assist in the provision of, facilities for and in connection with, the transport of milk and other dairy produce to Calcutta from any municipal or private dairy;
- (iv) purchase, maintain, or dispose of stud-bulls and take such other measures as may appear to the Corporation to be desirable with a view to improving the local breed of cattle; and
- (v) establish, furnish, and maintain dépôt or stores for the sale of milk and other dairy produce from municipal and other dairies.

428. (1) No person shall, without or otherwise than in conformity with the terms of a license granted by the Corporation in that behalf,—

Licensing
dairyman. of

(a) carry on in Calcutta the trade or business of a dairyman; or

(b) use any place in Calcutta for the sale of milk.

(Part V.—Chapter XXIX.—Milk-supply.—Sections 429—431.)

(2) Nothing in sub-section (1) shall apply to the sale of milk in any hotel or eating-house for consumption on the premises.

Corporation to be satisfied as to the sanitary condition of dairies before granting license under section 428.

429. No person shall be licensed under section 428, sub-section (1), unless the Corporation, after due inquiry, are satisfied that the milk is obtained by him from a dairy, whether within or without Calcutta, in which the provisions for the ventilation, including air-space, and the cleansing, drainage and water-supply are such as in the opinion of the Corporation are necessary or proper—

- (a) for the health and good condition of the milch-cattle therein,
- (b) for the cleanliness of milk vessels used therein for containing milk for sale, and
- (c) for the protection of the milk against infection or contamination.

Power to require dairymen to furnish list of sources of supply.

430. If the Health Officer has reason to believe that any person in Calcutta is suffering or is likely to suffer from a dangerous disease attributable to milk supplied in Calcutta from any dairy situated within or without Calcutta, or that the consumption of milk from such place is likely to cause any person in Calcutta to suffer from a dangerous disease, the Health Officer may require the person supplying the milk to furnish, within a reasonable time to be fixed by the Health Officer, a complete list of all dairies from which that person's supply of milk is derived or has been derived during the last six weeks, and, if the supply or any part of it is obtained through any other person, may make a similar requisition upon him; and every person on whom any such requisition is made shall comply therewith.

Inspection of dairies and prohibition of milk-supply.

431. (1) The Health Officer may inspect, with a qualified Veterinary Surgeon, any dairy referred to in section 430, and the milch-cattle therein, and if, on such inspection, the Health Officer is of opinion that the dangerous disease is caused or is likely to be caused from consumption of the milk supplied therefrom, he may make an order prohibiting the supply of any milk for human consumption from such dairy.

(2) An order made by the Health Officer under sub-section (1) shall be forthwith withdrawn on his being satisfied that the milk-supply has been changed or that the cause of infection has been removed.

(3) When an order is made under sub-section (1) or is withdrawn under sub-section (2) in respect of a

of 1923.)

(Part V.—Chapter XXIX—Milk-supply —Sections 432, 433)

dairy situated outside Calcutta, the Health Officer shall also inform the local authority within whose jurisdiction the dairy is situated.

(4) When an order is made under sub-section (1), the Health Officer may direct such milk to be boiled and permit it to be sold or used under such reasonable restrictions as he may prescribe in this behalf for food of animals, or he may cause the milk to be destroyed.

(5) No person shall sell or supply any milk in contravention of the provisions of this section.

(6) No dairyman shall be liable to an action for breach of contract if the breach be due to an order passed under this section.

432. (1) If, on an inspection referred to in section 431, sub-section (1), the Health Officer is of opinion that any milch-cattle in such dairy are suffering from a disease which is likely to cause any person consuming the milk to suffer from a dangerous disease, he may cause any such animal to be seized and may send it to a veterinary hospital for treatment.

Power to seize and send milch cattle to veterinary hospital for treatment.

(2) When any such animal has been sent to a veterinary hospital under sub-section (1), it shall be detained there until, in the opinion of the officer in charge of the hospital, it is cured.

(3) The cost of the treatment, feeding and watering of the animal in the hospital may be realized from the owner of the animal according to such scale of rates as the Corporation may, from time to time, prescribe.

(4) If the owner refuses or neglects to pay such cost or to remove the animal within such time as the officer in charge of the hospital may prescribe, that officer may direct the animal to be sold and the proceeds of the sale to be applied to the payment of such cost.

(5) The surplus, if any, of the sale-proceeds shall be held in deposit by the Corporation, and shall, on application to be made by the owner within six months after the date of sale, be paid to him.

433. Every person licensed under section 125, sub-section (1), shall notify to the Health Officer all cases of dangerous disease among persons engaged in, or in connection with the dairy, whether within or without Calcutta, from which he obtains his supply of milk for sale in Calcutta, as soon as he becomes aware or has reason to suspect that such dangerous disease exists.

Licensed persons to notify infectious diseases existing among persons engaged in dairies.

(Part V.—Chapter XXIX.—Milk-supply.—Chapter XXX.—Restraint of infection.—Sections 434—438.)

Application of section 507 to an entry to inspect dairy.

434. The provisions of section 507 shall be applicable to an entry to inspect a dairy, whether within or without Calcutta, from which any milk is obtained for sale in Calcutta, for the purposes of this Act.

CHAPTER XXX.

RESTRAINT OF INFECTION.

Medical practitioners to give information of existence of dangerous disease.

435. Every medical practitioner who, in the course of his practice, becomes cognizant of the existence of any dangerous disease in any private or public dwelling-house, other than a public hospital, shall give information of the same with the least practicable delay to the Health Officer in such form and with such details as the Health Officer may, from time to time, require.

Power to Health Officer to inspect places and take measures to prevent spread of dangerous disease.

436. The Health Officer, or any other municipal officer authorized by him in this behalf, may, at any time by day or by night, without notice, or after giving such notice of his intention as may, in the circumstances, appear to him to be reasonable, inspect any place in which any dangerous disease is reputed or suspected to exist, and take such measures as he may think fit to prevent the spread of the said disease beyond such place.

Prohibition of use, for drinking or for other domestic purpose, of water likely to cause dangerous disease.

437. (1) If it appears to the Health Officer that the water in any well, tank or other place is likely, if used for the purpose of drinking or for any other domestic purpose, to engender or cause the spread of any dangerous disease, he may, by public notice, prohibit the removal or use of the said water for such purpose.

(2) No person shall remove or use for such purpose any water in respect of which any such public notice has been issued.

Power to Health Officer to remove patient to hospital in certain cases.

438. (1) When, in the opinion of the Health Officer, any person is suffering from a dangerous disease and is also without proper lodging or accommodation or is lodged in such a manner that he cannot be effectually isolated so as to prevent the spread of infection, and the said officer considers that such person should be removed to a hospital or place at which patients suffering from such disease are

of 1923.]

(Part V—Chapter XXX—*Restraint of infection—*
Section 439)

received for medical treatment, he may, with the approval of the Executive Officer, direct or cause the removal of such person to such hospital or place.

Provided that all costs incurred for the removal and in the treatment of any such patient may be borne by the Corporation.

Provided also that, if any such person is a female, she shall not be removed to any such hospital or place unless the same has accommodation for females, of a suitable kind, and set apart from the portion assigned to males.

(2) The person (if any) who has charge of a person in respect of whom an order is made under sub-section (1) shall obey such order.

(3) If any female who, according to the custom of the country, does not appear in public, be removed to any hospital or place under sub-section (1)—

(a) the removal shall be effected in such a way as to preserve her privacy,

(b) special accommodation suited to such custom shall be provided for her in such hospital or place,

(c) she shall be treated therein by female agency only, and

(d) her female relatives shall be allowed to remain with her.

439. (1) If the Health Officer, or any municipal officer authorized by him in this behalf, is of opinion that the cleansing or disinfecting of any building or any part of a building, or of any article therein which is likely to retain infection, or of any tank, pool or well adjacent to a building, would tend to prevent or check the spread of any dangerous disease, he may cleanse or disinfect such building, part, article, tank, pool or well and may, by written notice, require the occupier of such building or any part thereof to vacate the same for such time as may be prescribed in such notice.

Power to Health
Officer to disinfect
building, tank,
pool or well

(2) The cost of cleansing or disinfecting any building or part thereof, or any article therein, under sub-section (1), shall be paid by the occupier of such building and the cost of cleansing or disinfecting any tank, pool or well, under the said sub-section, shall be paid by the person in actual possession of such tank, pool or well, or if there be no such person, by the owner thereof:

Provided that if, in the opinion of the Corporation, the owner or occupier is from poverty unable to pay

(Part V.—Chapter XXX.—*Restraint of infection.*—
Sections 440—442.)

the said cost, the Corporation may direct payment thereof to be made from the Municipal Fund.

Power to
Health Officer to
destroy huts and
sheds.

440. (1) If the Health Officer is of opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease, he may, after giving to the owner or occupier of such hut or shed such previous notice of his intention as may in the circumstances of the case appear to him reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

(2) Compensation not exceeding the value of the hut shall be paid by the Corporation to any person who sustains loss by the destruction of any such hut or shed; but, except as so allowed by the Corporation, no claim for compensation shall lie for any loss or damage caused by any exercise of the power conferred by sub-section (1).

Infected build-
ing not to be let
without being
first disinfected.

441. No person shall let a building or any part of a building in which he knows or has reason to know that a person has been suffering from a dangerous disease,—

(a) unless the Health Officer has disinfected the same and has granted a certificate to that effect, and

(b) until a date specified in such certificate as that on which the building or part may be occupied without causing risk of infection.

Explanation.—For the purposes of this section the keeper of an hotel or inn shall be deemed to let part of his building to any person accommodated therein.

Provision of
places for disinfection,
washing or destruction
of infected articles,
and power to
Health Officer to
disinfect or
destroy such
articles.

442. (1) The Corporation may provide a place or places, with all necessary apparatus and establishment, for the disinfection of conveyances, clothing, bedding or other articles which have become infected; and when any articles have been brought to any such place for disinfection, may cause them to be disinfected either,—

(a) free of charge; or,

(b) in their discretion, on payment of such fees as they may from time to time fix in this behalf.

(2) The Corporation may from time to time, by public notice, appoint a place or places at which conveyances, clothing, bedding or other articles which have been exposed to infection from any

of 1923.]

(Part V —Chapter XXX—*Restraint of infection.*—
Sections 443, 444)

dangerous disease may be washed, and no person shall wash any such article at any place not so appointed, without having previously disinfected the same

(3) The Health Officer, or any person authorized by him in this behalf, may disinfect or destroy, or, by written notice, direct the disinfection or destruction of any clothing, bedding or other articles likely to retain infection

(4) The Corporation shall pay such compensation as may appear to them reasonable for any article destroyed under sub-section (3), and their decision shall be final

443. (1) No person shall, without previous disinfection of the same, give, lend, sell, transmit, or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any dangerous disease.

Infected article
not to be trans-
mitted etc
without previous
disinfection

(2) Nothing in sub-section (1) shall apply to a person who transmits, with proper precautions, any such article for the purpose of having the same disinfected

444. (1) No person who is suffering from a dangerous disease shall enter, or cause or permit himself to be carried in, a public conveyance, nor shall any other person knowingly cause or permit a person in his charge and suffering from a dangerous disease or the dead-body of any person who has died from such disease to be carried in a public conveyance without—

Restrictions on
carriage of pa-
tient or dead body
in public convey-
ance

(a) previously notifying to the owner, driver, or person in charge of such conveyance that he is so suffering, and

(b) taking proper precautions against spreading such disease.

(2) Notwithstanding anything contained in any enactment relating to public conveyances for the time being in force, no owner or driver or person in charge of a public conveyance shall be bound to carry any person suffering as aforesaid or any such dead-body in such conveyance, unless payment or tender of sufficient compensation for the loss and expenses he must incur in disinfecting such conveyance is first of all made to him.

of 1923.]

(Part V—Chapter XXXI—Registration of births and deaths and disposal of the dead—Sections 448—450.)

CHAPTER XXXI

REGISTRATION OF BIRTHS AND DEATHS AND DISPOSAL OF THE DEAD

Registration of births and deaths

448. (1) The Health Officer shall be chief registrar of Calcutta and shall keep, in such form as may from time to time be prescribed by the Local Government, a register of all births and deaths occurring in Calcutta

Appointment of registrars and sub-registrars and list of same

(2) The Corporation shall, for the purposes of this chapter, divide Calcutta into such and so many districts as they may think fit, and shall appoint a person to be registrar of births and deaths for each such district

(3) On the occurrence of any dangerous disease, the Corporation may appoint as many additional registrars as they may think necessary.

(4) The Corporation shall appoint a sub-registrar for each registered burial or burning ground or other place for the disposal of the dead, to register all corpses brought thereto for interment or cremation or for disposal otherwise

Provided that it shall be competent to the Corporation to appoint the same sub-registrar for more than one such burial or burning ground or other place

(5) The Corporation shall cause to be printed and published a list containing the name and address of every registrar and sub-registrar appointed under this section

449. The Corporation shall cause to be prepared and printed a sufficient number of register-books in such form as may from time to time be prescribed by them, for making entries of all births and deaths occurring in Calcutta

Register books.

450. A registrar shall inform himself of every birth and death occurring in his district and shall ascertain and register, as soon as conveniently may be after the event, and without fee or reward, the particulars prescribed in Schedule XXI or Schedule XXII, as the case may be, in respect of every birth or death which has not been already registered

Registrar to inform himself of, and register, births and deaths

of 1923.]

(Part V.—Chapter XXXI.—Registration of births and deaths and disposal of the dead—Sections 453—457)

453. Any medical practitioner in attendance during the last illness of any person dying in Calcutta shall, within three days of his becoming cognizant in the course of such attendance of the death of such person, send a written notice to the Health Officer, as nearly as may be in the form prescribed in Schedule XXII, stating, to the best of his judgment, the cause of death

Medical practitioners to send to Health Officer notice stating cause of death

454. It shall be the duty of the police to convey every unclaimed corpse to a burial or burning ground or other place for the disposal of the dead, or to a duly appointed mortuary, and thereafter to inform the registrar of the district in which such corpse was found.

Duties of police with regard to unclaimed corpses

455. A sexton or keeper of a burial or burning ground or other place for the disposal of the dead, whether situated in Calcutta or not, shall not bury, burn or otherwise dispose of, or allow to be buried or burnt or otherwise disposed of, the corpse of any person who has died in Calcutta unless such corpse is accompanied by a certificate, in the form prescribed by Schedule XXII signed by a registrar or sub-registrar appointed under section 448 or by a registered medical practitioner or any other medical practitioner authorized in this behalf by the Local Government

Sextons &c, not to bury, etc, corpse without certificate

Provided that, at any burial or burning ground or other place for the disposal of the dead where there is a sub-registrar approved in this behalf by the Corporation who keeps a register in the form prescribed by the said schedule, an entry in such register relating to the deceased shall be deemed sufficient

456. The Local Government may make rules—

Power to Local Government to make rules

- (a) prescribing the qualifications to be required in persons appointed to be registrars or sub-registrars under this chapter;
- (b) generally, for the guidance of the Corporation, the Health Officer, registrars and sub-registrars in all matters connected with the carrying out of the provisions of this chapter.

Disposal of the dead.

457. (1) Every owner or keeper of a place, not vested in or owned by the Corporation or a Board appointed by the Local Government for the administration of such place, which is used for burying,

Registration of places for disposal of the dead

(Part V.—Chapter XXXI.—Registration of births and deaths and disposal of the dead.—Sections 458—460.)

burning or otherwise disposing of the dead shall cause the same to be registered in a register which shall be kept by the Corporation, and shall deposit in the municipal office at the time of registration a plan of the said place showing the extent and boundaries thereof and bearing the signature of a surveyor in token of its having been prepared by or under the supervision of such surveyor.

(2) All burial and burning grounds shall be classified by the Corporation in the said register as public or private.

Provision and registration of new places for disposal of the dead.

458. If the existing places for the disposal of the dead appear to the Corporation at any time to be insufficient, they shall—

- (a) provide other fit and convenient places for the disposal of the dead, either in or without Calcutta,
- (b) cause the same to be registered in the register kept under section 457, sub-section (1), and
- (c) cause to be kept in the municipal office, at the time of registration of each place so provided, a plan thereof showing the extent and boundaries of the same.

Permission of the Corporation required for opening or re-opening places for disposal of the dead.

459. Except with the written permission of the Corporation—

- (a) no place which has never previously been lawfully used as a place for the disposal of the dead and registered as such shall be opened by any person as such place, and
- (b) no burial or burning ground or other place for the disposal of the dead which has fallen into disuse shall be again used as such.

Power to Local Government to direct the closing of any place for disposal of the dead.

460. (1) If, from information furnished by competent persons and after personal inspection, the Health Officer is at any time of opinion—

- (a) that any place of public worship is, or is likely to become, injurious to health by reason of the state of the vaults or graves within the walls of, or underneath, such place or in any churchyard or burial ground adjacent thereto, or
- (b) that any other place used for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health,

of 1923.]

(Part V.—Chapter XXXI.—Registration of births and deaths and disposal of the dead—Sections 461, 462)

he may submit his said opinion, with the reasons therefor, to the Corporation, who shall forward the same, with their opinion, for the consideration of the Local Government

(2) Upon receipt of such opinion, the Local Government, after such further inquiry (if any) as they deem fit to make, may, by notification published in the *Calcutta Gazette* and in local newspapers, direct that such place of public worship, chunabyard, burial ground or other place for the disposal of the dead shall no longer be used for the disposal of the dead

(3) Every such notification shall be noted in the register kept under section 457, sub-section (1)

(4) On the expiration of two months from the date of any such notification, the place to which the same relates shall be closed for the disposal of the dead.

(5) A copy of the said notification, with a translation thereof in the Bengali, Hindi and Urdu languages, shall be affixed on a conspicuous spot on or near the place to which the notification relates, unless such place be a place of public worship

461. (1) If, after personal inspection, the Health Officer is at any time of opinion that any place formerly used for the disposal of the dead which has been closed under section 460 or under any other enactment or authority has, by lapse of time, become no longer injurious to health and may, without risk of danger, be again used for the said purpose,

he may submit his said opinion, with the reasons therefor, to the Corporation, who shall forward the same, with their opinion, for the consideration of the Local Government

(2) Upon receipt of such opinion, the Local Government, after such further inquiry (if any) as they deem fit to make, may, by notification published in the *Calcutta Gazette*, direct that such place be re-opened for the disposal of the dead.

(3) Every such notification shall be noted in the register kept under section 457, sub-section (1)

462. (1) No person shall, without the written permission of the Executive Officer,—

(a) make any vault, grave or interment within any wall, or underneath any passage, porch, portico, plinth or verandah, of any place of worship; or

Power to Local Government to direct re-opening of place closed under section 460 or other enactment

Prohibition of certain acts without the permission of the Executive Officer

(Part V.—Chapter XXXI.—Registration of births and deaths and disposal of the dead.—Chapter XXXII.—Census.—Sections 463, 464.)

- (b) make any interment or otherwise dispose of any corpse in any place which is closed for the disposal of the dead under section 460; or
- (c) build, dig or cause to be built or dug any grave or vault, or in any way dispose of, or suffer or permit to be disposed of, any corpse, at any place which is not registered in the register kept under section 457, sub-section (1); or
- (d) exhume any body from any place for the disposal of the dead, except under the provisions of section 176 of the Code of Criminal Procedure, 1898¹, or of any other relevant enactment for the time being in force.

(2) Such permission may be granted by the Executive Officer in special cases only and subject to such general or special orders as the Local Government may make in this behalf.

(3) An offence against clauses (b), (c) or (d) of sub-section (1) shall be deemed to be a cognizable offence within the meaning of sections 149, 150 and 151 of the said Code of Criminal Procedure, 1898.¹

CHAPTER XXXII.

CENSUS.

Census when
and how to be
taken.

463. (1) At such time and in such manner as the Corporation, with the sanction of the Local Government, may from time to time direct, an enumeration shall be made of all persons then being in Calcutta.

(2) When any time is appointed under sub-section (1), the Local Government shall, at least one month before that time, publish a notification in the *Calcutta Gazette*, and in such local newspapers, English and vernacular, as they may think fit, announcing the said time and containing all other particulars of which they consider the residents should be informed.

464. Any person specially appointed by the Corporation for the purpose (hereinafter called the Superintendent), shall, subject to the general control

Superintendence
of enumeration.

¹ General Acts, Vol. V.

of 1923.]

(Part V—Chapter XXXII—Census—Sections 465—467)

of the Corporation, superintend the making of every enumeration under this chapter, and shall cause to be prepared and issued, for the purposes of such enumeration, such forms and instructions as he may consider necessary and as may be sanctioned by the Local Government

465. The expenses incurred in making any enumeration under this chapter shall be paid out of the Municipal Fund

Expenses of enumeration

466. (1) The Superintendent shall appoint a sufficient number of competent persons to act as enumerators for the purposes of this chapter

Appointment and duties of enumerators

(2) Every enumerator shall obey all written instructions issued to him by the Superintendent for the making of the enumeration and shall, under the direction of the Superintendent, and on the day to be appointed by the Corporation in this behalf,—

(a) visit every building within the area to which he has been appointed,

(b) take an account in writing of the name, sex, age, caste (if any), nationality and occupation of every person residing in such building on the night immediately preceding the said day, and

(c) take in account in writing of all occupied buildings, all buildings then being built and uninhabited and all other uninhabited buildings

Provided that no female shall be required to disclose her name or age

467. (1) The following persons, namely,—

(a) any military or naval officer in command of a body of military or naval men or of a vessel of war, or any police-officer,

(b) any master of a merchant vessel, or any officer of the Port Commissioners in charge of a despatch vessel or dredger,

(c) any *serang* or *lindal*, or any person in charge of a vessel or boat,

(d) any person in charge of a lunatic asylum, hospital or prison, or of any public or private charitable or scholastic institution, and

(e) any keeper of an hotel or lodging-house,

Military, naval and police officers and certain other persons, if required, to act as enumerators

shall, if required by the Superintendent, act as an enumerator for the purpose of taking an account in writing of the name, sex, age, caste (if any), nationality and occupation of every person under his

(Part V.—Chapter XXXII.—Census.—Part VI.—Chapter XXXIII.—Acquisition, disposal and general improvement of land and buildings.—Sections 468, 469.)

command or charge, or abiding in any building in his possession, charge or control, on the night immediately preceding the day appointed under section 466, sub-section (2), and shall obey all instructions issued to him in writing by the Superintendent for the purposes of taking such account.

(2) If any person upon whom a requisition is made under sub-section (1) is unable to write, an enumerator appointed under section 466, sub-section (1), shall fill up any form supplied to such person under that sub-section.

PART VI.

CHAPTER XXXIII.

ACQUISITION, DISPOSAL AND GENERAL IMPROVEMENT OF LAND AND BUILDINGS.

Acquisition and disposal of land and buildings.

Power to Corporation to acquire land and buildings for improvements.

468. The Corporation may acquire any land and buildings, whether situated in Calcutta or not,—

- (i) for the purpose of opening out any congested or unhealthy area or of otherwise improving any portion of Calcutta; or
- (ii) for the purpose of erecting sanitary dwellings for the working and poorer classes.

Scheme for carrying out such improvements.

469. (1) When any land or building has been acquired under section 468 for the purpose of carrying out any work, the Corporation shall frame a scheme for carrying out such work either by themselves or by any co-operative building society or by any other person whom they may select to carry out the same.

(2) When any scheme is framed under sub-section (1) for the carrying out of work by any person other than the Corporation, the scheme shall embody the terms and conditions agreed upon between the Corporation and such person;

and such conditions shall be deemed to include a power to the Corporation to superintend and control the execution of the work.

(3) Every scheme framed under sub-section (1) shall be published in the *Calcutta Gazette* and in such

of 1923.]

(Part VI—Chapter XXXIII.—Acquisition, disposal and general improvement of land and buildings—Sections 470, 471)

other manner as the Corporation may think fit, together with a notice specifying a period within which objections will be received

(4) The Corporation shall consider all objections received within the said period, and shall submit the documents to the Local Government with such recommendations as they may desire to make

(5) The Local Government, after considering the said objections and recommendations (if any), may confirm the scheme, and before doing so may modify it, but not so as to extend its effect

470. When any scheme for the carrying out of work by the Corporation themselves has been confirmed by the Local Government under section 469, sub-section (c), the Corporation may proceed to carry out the work in accordance with the scheme

Power to Corporation to carry out improvements

471. (1) When any scheme for the carrying out of work by any person other than the Corporation has been confirmed by the Local Government under section 469, sub-section (5), the Corporation may sell, lease or otherwise transfer to such person the land and buildings which have been acquired under section 468, for the purpose and under the condition that he will carry out such work in accordance with the said scheme

Transfer of land and buildings to person for carrying out improvements

(2) Every sale effected or lease granted by the Corporation under this section shall be deemed to include a covenant authorizing the Corporation to re-enter if the purchaser or the lessee—

(a) fails to carry out any work in accordance with the said scheme, or,

(b) after carrying out the work, uses the land or buildings leased to him, or any part thereof, or allows the same to be used, for any purpose which is inconsistent with the said scheme;

and such covenant shall be binding on all transferees from the original purchaser or lessee.

(3) Before possession of any land or building is given to any person by the Corporation in pursuance of any contract (other than a lease) made under this section, the Corporation shall take security from such person for the due carrying out and maintenance of work in accordance with the said scheme.

(Part VI.—Chapter XXVIII.—Acquisition, disposal and general improvement of land and buildings.—Sections 472, 473).

Additional powers for acquisition, disposal, etc.

Further powers of Corporation for acquiring and disposing of land or buildings.

472. In addition to the powers expressly conferred by any other section of this Act for the acquisition and disposal of land or buildings, the Corporation may—

- (i) acquire, or pay rent for, or take on lease under such conditions as they may think fit, any land and buildings, whether situated in Calcutta or not, which may, in their opinion, be needed for carrying out any of the purposes of this Act,
- (ii) sell, lease or otherwise transfer, on such terms as they may think fit, any land or building vested in them, and
- (iii) purchase any land or buildings outside Calcutta in execution of a decree made by a Court in their favour.

Procedure when Corporation lease or sell land acquired by them.

473. Whenever the Corporation decide to lease or sell any land acquired by them under this Act from any person, they—

- (a) shall give notice by advertisement in local newspapers; and
- (b) shall offer a prior right to take on lease or purchase such land to any person or his heirs, executors or administrators, who formerly had any interest in such land, or who, in the opinion of the Corporation, has a superior claim to such land, or if it appears to the Corporation that no person has such a superior claim, the Corporation shall put up to auction the right to take on lease or purchase such land among all persons who, previous to its acquisition, had interests in any portion of such land greater than a lease for years having seven years to run:

Provided that the prior right referred to in clause (b) need not be offered or put up to auction, if the Corporation consider that to do so would be detrimental to the carrying out of the purposes of this Act:

Provided also that before putting up to auction the right to take a lease or purchase such land, the Corporation may fix a minimum reserve price, below which the said right shall not be sold.

of 1923.]

(Part VI—Chapter XXXIII—Acquisition, disposal
and general improvement of land and buildings—
Sections 474, 475.)

Exemption

474. Nothing in this Act shall authorise the Corporation to acquire for the purposes of this chapter or of any other section of this Act any building which is intended solely for and is used solely as a place of public worship

Exemption of
places of public
worship from
acquisition

General provisions

475. Any land or buildings which the Corporation are authorized by this Act to acquire may be acquired under the provisions of the Land Acquisition Act, 1894¹, and for that purpose the said Act shall be subject to the amendment that the market-value of any land or building to be acquired shall be deemed, for the purposes of clause *first* of sub-section (1) of section 25 of the said Land Acquisition Act, to be the market-value according to the disposition of such land or building at the date of publication of the declaration relating thereto under section 6 of the said Land Acquisition Act

Application of
Land Acquisition
Act, 1894 with
amendment

Provided as follows —

- (i) if, within a period of two years from the date of the publication of such declaration in respect of any land or building, the Collector has not made an award under section 26 of the said Land Acquisition Act with respect to such land or building, the owner of the land or building shall be entitled to receive compensation for the damage suffered by him in consequence of the delay,
- (ii) if it be shown that, before such declaration was published, the owner of the land or building had taken active steps and incurred expenditure to secure a more profitable disposition of the same, further compensation, based on his actual loss, may be paid to him,
- (iii) if the market-value is specially high in consequence of the property being put to a use which is unlawful or contrary to public policy, that use shall be disregarded and the market-value shall be deemed to be the market-value of the land or building if put to ordinary uses;

(Part VI.—Chapter XXXIII.—Acquisition, disposal and general improvement of land and buildings.—Chapter XXXIV.—Special powers to the Corporation.—Sections 476, 477.)

- (iv) if the market-value has been increased by means of any improvement made by the owner or his predecessor in interest within one year before the aforesaid declaration was published, such increase shall be disregarded, unless it be proved that the improvement was made *bona-fide* and not in contemplation of proceedings for the acquisition of the land or building being taken under the said Land Acquisition Act.

Vesting in Corporation of land and buildings acquired under the Land Acquisition Act, 1894.

476. On payment by the Corporation of the compensation awarded under the said Land Acquisition Act, 1894¹, in respect of any land or buildings and of any other charges incurred in acquiring the said land or buildings, the same shall vest in the Corporation.

CHAPTER XXXIV.

SPECIAL POWERS TO THE CORPORATION.

Special powers to the Corporation.

477. In addition to the other powers and duties conferred or imposed on them by or under this Act or any other Act for the time being in force, the Corporation may, in their discretion, provide from time to time, either wholly or partly, for all or any of the following matters, namely:—

- (i) the planting and preservation of trees in public streets and public places;
- (ii) the construction, alteration, maintenance and adornment of public halls, offices and other buildings under the control of the Corporation or required for municipal purposes;
- (iii) the laying out and maintenance of squares gardens and playgrounds, and the supplying and maintenance of equipment for games in playgrounds;
- (iv) the playing of music in squares, gardens or other public places;
- (v) the survey of buildings and lands, and the preparation and maintenance from time to time of survey maps and plans and of the records relating thereto;

¹ General Acts, Vol. IV.

of 1923.]

(Part VI—Chapter XXXIV—Special powers to the Corporation—Section 477)

- (vi) the construction and maintenance of hospitals, infirmaries, alms-houses, asylums, orphanages, industrial schools and auxiliary homes for the purposes of the Bengal Children Act, 1922, and of public training schools for nurses, either in Calcutta, or (if such institutions are for the benefit of persons residing in Calcutta) without Calcutta, and arrangements for keeping a sufficient staff in such institutions,
- (vii) the payment of contributions to the cost of such orphanages, industrial schools and auxiliary homes for the purposes of the Bengal Children Act, 1922, and of public training schools for nurses or institutions for providing nurses and of the staff of these institutions and the other institutions referred to in clause (vi),
- (viii) the establishment, maintenance and administration of veterinary hospitals and dispensaries in Calcutta,
- (ix) the payment of contributions to the cost of such veterinary hospitals and dispensaries,
- (x) the payment of contributions towards any public fund raised for the relief of human suffering within Calcutta,
- (xi) the payment of contributions to charitable institutions in Calcutta for assisting in the disposal of unclaimed corpses and the burial or cremation of paupers;
- (xii) vaccination;
- (xiii) the promotion of technical and industrial education,
- (xiv) free libraries;
- (xv) the payment of, or the payment of a contribution to, the cost incurred on the occasion of any public ceremony or entertainment or any exhibition for the purpose of instruction or education, held in Calcutta;
- (xvi) the payment of contributions to the Commissioners of any neighbouring municipality for expenditure on sanitary purposes;

(Part VI.—XXXIV.—Special powers to the Corporation.—Part VII.—Chapter XXXV.—By-laws and rules.—Section 478.)

- (xvii) the presentation of addresses to persons of distinction; and
- (xviii) any other matter likely to promote the public health, safety or convenience or the carrying out of this Act, which the Local Government, on the recommendation of the Corporation made in pursuance of a resolution in favour of which not less than two-thirds of the Councillors and Aldermen present and voting have voted, may declare in this behalf.

PART VII.

CHAPTER XXXV.

BY-LAWS AND RULES.

Power to Corporation to make by-laws.

478. The Corporation may make by-laws generally for carrying out the provisions and intentions of this Act; and in particular, and without prejudice to the generality of the foregoing power, they may make by-laws—

- (1) for the subdivision, amalgamation, renewal and exchange of municipal debentures issued under Chapter VIII;
- (2) regulating—
 - (a) the detention and examination of petroleum introduced into Calcutta for consumption therein;
 - (b) the collection of any tax imposed under section 181, sub-section (3); and
 - (c) such other matters connected with the introduction of petroleum into Calcutta for consumption therein as the Corporation may from time to time think fit to regulate:

Provided that no such by-law shall render petroleum, passing through Calcutta in transit for any place beyond Calcutta, liable to taxation or to any detention or examination whatsoever under this Act;

of 1923.]

*(Part VII.—Chapter XXXV.—By-laws and rules.—
Section 478)*

- (3) prescribing the size, the make, the length of the nave, and the minimum width of tyres of carts, the maximum load which they shall be permitted to carry, and generally prescribing the conditions under which persons shall be permitted to own and drive registered carts,
- (4) prescribing the procedure to be followed by owners or occupiers desiring a water-supply,
- (5) prescribing a schedule of charges for water supplied for other than domestic purposes,
- (6) regulating the testing of the purity of filtered water supplied under Chapter XVII,
- (7) providing for the maintenance of a map of the water-supply system and facilitating the inspection of the same by ratepayers.
- (8) regulating—
 - (i) the construction and maintenance of water-pipes, taps and fittings, and
 - (ii) all matters and things connected with the supply and use of water, the use, protection and control of meters, hydrants and other fittings, and generally the control of the water-supply and the administration of Chapter XVII;
- (9) specifying the manner in which house-drains and privies are to be connected with the municipal drains,
- (10) prescribing the procedure to be followed by owners and occupiers of premises in connecting house-drains and privies with the municipal drains;
- (11) regulating the construction, maintenance, control and cleansing of drains, ventilation-shafts or pipes, cesspools, house-gullies, privies, urinals, public bathing and washing places and drainage works of every description, whether belonging to the Corporation or not;
- (12) providing for the maintenance of a map of the sewerage system, and facilitating the inspection of the same by ratepayers;
- (13) prescribing the qualifications to be required from, and regulating the appointment, suspension, and dismissal of, licensed plumbers;

*(Part VII.—Chapter XXXV.—By-laws and rules.—
Section 478.)*

- (14) for the alteration of doors, gates, bars and windows opening outwards on a public street ;
- (15) for the provision, maintenance, and lighting of hoardings or fences in public streets when building or any other work is carried on ;
- (16) regulating the making of holes or excavations of any kind in a public street ;
- (17) prohibiting or regulating the placing of obstructions, projections or encroachments, or the depositing of materials or goods, in a public street or in or over any drain or aqueduct in a public street or on any land vested in the Corporation ;
- (18) regulating the posting or painting of advertisements in or adjacent to or visible from public streets or other public places ;
- (19) for the provision and maintenance of gutters and pipes for carrying and discharging water from buildings in a public street ;
- (20) regulating the construction of approach roads crossing the footpath of a public street ;
- (21) regulating the construction of verandahs and other structures in streets ;
- (22) for altering the position of pipes and appliances laid in streets ;
- (23) regulating all matters relating to the fittings, width and construction of streets ;
- (24) regulating the use of land as sites for the erection of buildings ;
- (25) regulating the erection of new buildings ;
- (26) regulating the making of alterations in, and additions to, buildings ;
- (27) regulating the erection and use of buildings for a temporary purpose ;
- (28) providing for the protection of lamps, lights, gas-pipes, electric wires and all other appurtenances necessary for the lighting of public streets and municipal markets and buildings ; and regulating the manner in which gas-pipes or electric wires shall be laid and existing gas-pipes or electric wires altered in such streets ;

(Part VII—Chapter XXXV—By laws and rules—
Section 478)

- (29) providing for and regulating the collection, removal and disposal of all offensive matter in the Corporation in Calcutta, and the scavenging of
- (30) for the regulation and control of public bathing and washing places and places constructed under section 377 the management, equipment and maintenance of public swimming baths the imposition of fees for the use of such baths and the control of persons resorting to such washing places and baths,
- (31) for the construction, management and maintenance of public wash-houses for the regulation and control of such public wash-houses and other places for the use of washermen in the exercise of their calling, for the imposition of fees for the use of such wash houses or places for the control of persons entering on business therein or resorting thereto, and for the prohibition of the use of unauthorized places for such purposes,
- (32) prohibiting the fouling of any tank, reservoir, stream, well or ditch in Calcutta or of any source from which the public water supply is drawn,
- (33) for preventing the straying of any animal and regulating the keeping feeding and destruction of any animal, and the disposal of its carcass, and prescribing the fees payable to the Corporation for such disposal
- (34) specifying the manner in which stables, cattle sheds and cow houses are to be constructed, altered, paved, repaired, maintained and inspected, and the means whereby they are to be connected with the municipal drains,
- (35) (a) providing for the inspection keeping and removal of milch cattle and prescribing and regulating the ventilation, lighting, cleansing, drainage and water supply of dairies and cattle sheds in the occupation of persons following the trade of dairyman or milk-seller, and

(Part VII.—Chapter XXXV.—By-laws and rules.—
Section 478.)

- (b) for declaring areas in which no person shall keep milch-cattle for the purpose of supplying milk for sale, subject to power being given to the Corporation to give such compensation as they think fit in respect of any cattle-shed constructed in accordance with the plan sanctioned by the Corporation within two years of the publication of a by-law under this sub-clause, provided that such structure is removed within the time fixed by the by-law;
- (36) for enforcing the cleanliness of milk-stores and milk-shops and milk-vessels used for containing milk;
- (37) requiring notice to be given whenever any milch-animal is affected with any contagious disease, and prescribing precautions to be taken for protecting milch-cattle and milk against infection or contamination;
- (38) for the regulation of lodging-houses;
- (39) regulating the removal and disposal of rank or noxious vegetation;
- (40) for the inspection, supervision, regulation, and control of eating-houses and places where food for human consumption is prepared or kept for sale;
- (41) for determining what amount of superficial and cubic space shall be deemed, for the purposes of sub-section (1) of section 384, to be necessary for each occupant of a building or room;
- (42) for the regulation, inspection by day or by night, supervision and control of all factories, bakehouses, work-shops, work-places and premises used for any of the purposes referred to or mentioned in sections 385 and 386, and of all trades and manufactures carried on therein, and for the cleanliness or ventilation of the same, or the health or safety of the persons employed therein;
- (43) regulating the inspection, supervision and control of theatres, circuses and other places of public resort, recreation or amusement, and prescribing the terms and conditions subject to which licenses may be granted for keeping open such places;

of 1923.]

(Part VII.—Chapter XXXV.—By-laws and rules.—
Section 478.)

- (44) for securing the efficient inspection of markets, slaughter-houses and places set apart under proviso (ii) to sub-section (1) of section 396;
- (45) regulating the management of, and the conduct of business in, markets;
- (46) regulating the use of any municipal market, municipal slaughter-house, municipal stock-yard, or any part thereof, or any place set apart under proviso (ii) to sub-section (1) of section 396;
- (47) providing for a sufficient supply of water to or in, and for the proper cleansing, general control and regulation of the sanitary condition of, markets, slaughter-houses, stock-yards and places set apart under proviso (ii) to sub-section (1) of section 396, and preventing the exercise of cruelty and the occurrence of nuisances or obstruction therein;
- (48) for preventing persons suffering from any loathsome disease from keeping stalls in, or being employed in preparing or selling articles of food in, any market or from entering any market or touching any article brought thereto for sale, and for authorizing the expulsion of such persons from any market;
- (49) for preventing persons suffering from any infectious or contagious disease living in places where food or drugs are sold, stored or prepared, and for disinfecting the place where any such case has occurred, and generally for the restraint of infection in such places;
- (50) for preventing the use in any market of false or incorrect weights, scales or measures;
- (51) for posting up a price-current in any market;
- (52) for the control and supervision of butchers carrying on business in Calcutta or at any municipal slaughter-house without Calcutta;
- (53) for securing the efficient inspection and sanitary regulation of shops in which articles of food or drugs are kept or sold and the provision therein of suitable receptacles or vessels for keeping such food or drugs and for enforcing the proper maintenance and cleanliness of such receptacles and vessels;

(Part VII.—Chapter XXXV.—By-laws and rules.—
Section 478.)

- (54) prescribing the standard of water to be used in the manufacture or preparation of soda water, lemonade, lithia water or other artificially aerated water or other mineral water or cordials or sherbet or other similar beverages or ice-creams or ice ;
- (55) prescribing the forms or kinds of label to be attached to articles of food or drugs, or a mixture thereof, or to packages containing the same, and requiring or prohibiting the use in the inscription on the label so attached of such particulars, directions, statements, information or words as are specified ;
- (56) prescribing the forms or kinds of label to be attached to receptacles containing disinfectants, germicides, antiseptics or preservatives for sale, and requiring or prohibiting the inscriptions on the label so attached of such particulars, directions, statements, information or words as are specified ;
- (57) requiring packages in which any article of food is sold to be marked as prescribed with the date on which it was packed ;
- (58) prohibiting the publication, use or exhibition in any manner whatsoever of any printed or pictorial matter with respect to articles of food or drugs which is false or misleading or likely to mislead ;
- (59) requiring the destruction or denaturation of any article of food that has become deteriorated or impoverished or which is injurious to health ;
- (60) securing the wholesomeness, cleanliness, and freedom from contamination and adulteration of any article of food or drug hawked about for sale, and the cleanliness of receptacles used for the purpose ;
- (61) prescribing and regulating the functions and duties of registrars and sub-registrars of births and deaths and of keepers of burial and burning grounds and other places for the disposal of the dead, and for regulating and ensuring the correct and prompt registration of all births and deaths ;
- (62) regulating the speedy disposal of corpses ;
- (63) regulating the carrying of corpses along streets ;

of 1923.]

*(Part VII.—Chapter XXXV—By-laws and rules—
Sections 479, 480)*

- (64) regulating the removal of corpses or parts of corpses which have been kept or used for purposes of dissection,
- (65) regulating the digging and making of graves and vaults
- (66) regulating the re-opening of graves and vaults for purposes of fresh interments,
- (67) regulating cremation;
- (68) generally, for regulating the disposal of the dead, the inspection of all places for the disposal of the dead, and the maintenance of all such places in good order and in a safe and sanitary condition
- (69) regulating and facilitating the taking of a census of the population of Calcutta, and securing accurate returns thereof, and prescribing the duties of the Superintendent referred to in section 464
- (70) for securing the registration of marriages for statistical purposes, and
- (71) regulating the printing and sale of by-laws and rules made under this Act, and providing for the exhibition thereof in suitable places

479. (1) There shall be annexed to by-laws made under clauses (9), (11) or (34) of section 178, type-plans of all constructions referred to in them and the said plans shall be open to the inspection of any applicant at the municipal office, at all reasonable times.

Provisions as to the application of certain by-laws

(2) No by-law made under clause (12) of section 178 shall—

- (a) affect the Bengal Steam-boilers and Prime-movers Act, 1879¹, or
- (b) apply to any factory to which the Indian Factories Act, 1911², is applicable.

480. In making a by-law under section 178, the Corporation may provide that a breach of it shall be punishable—

Penalties for breach of by-laws

- (a) with fine which may extend to fifty rupees and in the case of a continuing breach, with fine which may extend to ten rupees for every day during which the breach continues after conviction for the first breach.

or

¹ Bengal Code Vol II
² General Acts, Vol. VII

(Part VII.—Chapter XXXV.—By-laws and rules.—
Sections 481—483.)

- (b) with fine which may extend to ten rupees for every day during which the breach continues after receipt of written notice from the Corporation to discontinue the breach.

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481. The power to make by-laws under this Act is subject to the condition of the by-laws being made after previous publication, and to the following further conditions, namely,—

- (a) a draft of the by-laws shall be published in the *Calcutta Gazette* and in local newspapers;
(b) such draft shall not be further proceeded with until after the expiration of a period of one month from such publication or such longer period as the Corporation may appoint;
(c) for not less than one month during such period, a printed copy of such draft shall be kept at the municipal office for public inspection, and every person shall be permitted at any reasonable time to peruse the same, free of charge; and
(d) printed copies of such draft shall be obtainable by any person requiring the same, on payment of such fee, not exceeding two annas for each copy, as may be prescribed by the Corporation.

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482. (1) No by-law made by the Corporation under this Act shall have any validity unless and until it is sanctioned by the Local Government.

(2) Before sanctioning any such by-law, the Local Government may modify it.

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483. (1) The Local Government may, on the recommendation of the Corporation, by rules alter, add to or cancel any part of, or any rule contained in, any schedule except Schedule I.

(2) Notwithstanding anything contained in subsection (1) the Corporation in pursuance of a resolution passed at a meeting, may from time to time, subject to the approval of the Local Government, divide the Garden Reach constituency in Schedule III into two or more constituencies for the purposes of the election of Councillors and allocate to each such constituency such number of Councillors as to them may seem fit, but not so as to alter in respect of the area included in the Garden Reach Municipality before the commencement of this Act the total number of

of 1923.]

(Part VII.—Chapter XXXV—By-laws and rules.—
Sections 484—487.)

Concillors, or the number of seats as distributed between non-Muhammadan and Muhammadan Concillors, as fixed by Schedule III

(3) The Corporation may also amend Schedule VII so as to give effect to the division referred to in sub-section (2)

(4) All references in this Act to any schedule which may be amended under this section shall be construed as references to such schedule as for the time being so amended

484. (1) The power to make rules under any section (other than section 447) of this Act is subject to the condition of the rules being made after previous publication

Conditions precedent to the making of rules

(2) The power of the Local Government to make rules under section 25, sub-section (2), section 30, sub-sections (1) and (2), section 422, or section 483, sub-section (1), is also subject to the following further conditions, namely,—

(a) a draft of the rules shall be published in the *Calcutta Gazette* and forwarded to the Corporation for their opinion,

(b) such draft shall not be further proceeded with until six weeks after such publication or until such later date as the Local Government may appoint.

485. (1) No rule made under section 56, section 71, sub-section (9), or section 75, sub-section (4), shall have any validity unless and until it is sanctioned by the Local Government

Certain rules to be subject to sanction

(2) Before sanctioning any such rule, the Local Government may modify it.

486. All by-laws and rules made and (where sanction is required) duly sanctioned under this Act shall be published in the *Calcutta Gazette*, and shall thereupon have effect as if enacted in this Act.

Publication of by laws and rules in Gazette, and effect of such publication

487. (1) If the Local Government are at any time of opinion that any by-law or rule made under this Act by the Corporation should be cancelled, either wholly or in part, they shall cause the reasons for such opinion to be communicated to the Corporation, and shall prescribe a reasonable period within which the Corporation may make any representation with regard thereto which they may think fit

Power to Local Government to cancel by laws and rules

(2) After receipt and consideration of any such representation, or, if in the meantime no such representation is received, after the expiry of the prescribed period, the Local Government may at any

(Part VII.—Chapter XXXV.—By-laws and rules.—

Part VIII.—Chapter XXXVI.—Penalties.—
Section 488.)

time, by notification in the *Calcutta Gazette*, cancel such by-law or rule, either wholly or in part :

Provided that no by-law or rule shall be cancelled in part only if, within the period aforesaid, the Corporation have objected to a partial cancellation thereof.

(3) The cancellation of a by-law or rule under sub-section (2) shall take effect from such date as the Local Government may in the said notification direct, or, if no such date is specified, then from the date of the publication of the said notification in the *Calcutta Gazette*, except as to anything done or suffered or omitted to be done before such date.

(4) The said notification shall also be published in local newspapers.

PART VIII.

CHAPTER XXXVI.

PENALTIES.

Certain offences
punishable with
fine.

488. (1) Whoever commits any offence by—

- (a) contravening any provision of any of the sections, sub-sections, clauses of sections, provisos or rules of this Act mentioned in the first column of the following table, or
- (b) contravening any provision of any rule made under any of the said sections, sub-sections, clauses, or provisos, or
- (c) failing to comply with any direction lawfully given to him or any requisition lawfully made upon him under any of the said sections, sub-sections, clauses, provisos or rules,

shall be punished with fine which may extend to the amount mentioned in that behalf in the third column of the said table:—

(2) Whoever, after having been convicted of any offence referred to in clauses (a), (b) or (c) of sub-section (1), continues to commit such offence shall be punished, for each day after the first during which he continues so to offend, with fine which may extend to the amount mentioned in this behalf in the fourth column of the said table.

Explanation.—The entries in the second column of the following table, headed "Subject", are not intended as definitions of the offences described in the provisions mentioned in the first column, or even as abstracts of those provisions but are inserted merely as references to the subject thereof:—

of 1923.]

(Part VIII—Chapter XXXVI.—Penalties.—Section 488.)

1	2	3	4
Sections, sub sections, clauses provisos or rules	Subject	Fine which may be imposed	Daily fine which may be imposed
Section 121 sub section (2)	Requisition by auditors to produce documents, to appear in person, or to make and sign declaration, to answer question or to submit statement	One hundred rupees	Fifty rupees
Section 136 sub sections (1) and (2)	Requisition for returns of measurements and rent or annual value of land or building	Two hundred rupees	
Section 145	... Obligation to give notice of transfer of title in land or building	Twenty five rupees	Five rupees
Section 155	Obligation to give notice of re occupation of unoccupied land or building	Twenty five rupees	Five rupees
Section 167, sub sections (1) and (2)	Obligation to forward statement of carriages and animals liable to taxation	Twenty rupees	
Section 168	.. Requisition on occupier to forward statement of carriages and animals liable to taxation, and names and addresses of persons owning or keeping same	Twenty rupees	
Section 171	. Requisition on livery stable keeper to produce books and accounts for inspection	Fifty rupees	... Ten rupees
Section 173 sub sections (3) and (4)	Obligation to forward list of dogs liable to taxation	Ten rupees	
Section 178	. Requisition on occupier to forward list of persons carrying on profession, trade or calling in his premises	Fifty rupees	Ten rupees
Section 181, sub section (2)	Prohibition of introduction of petroleum into Calcutta for storage	One thousand rupees	
Section 183, sub section (3)	Keeping or possessing cart not duly registered	Twice the amount payable for registration, exclusive of the amount so paid	-
Section 183, sub section (4)	Failing to affix registration number to cart	Five rupees	
Section 187, sub section (1)	Driving cart without registration ticket	Twenty five rupees	Five rupees

(Part VIII.—Chapter XXXVI.—Penalties.—Section 488.)

1	2	3	4
Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
Section 187, sub-section (3).	Use of false registration ticket, or a ticket granted to another cartman.	Twenty-five rupees	Five rupees.
Section 220, sub-section (2).	Improper use of filtered water supplied for domestic purposes.	Ten rupees ...	Five rupees.
Section 221, sub-section (3).	Use of unfiltered water for domestic purposes.	Five rupees.	
Section 228 ...	Requisition on owner to obtain adequate supply of water from nearest main for his building.	Twenty-five rupees	Five rupees.
Section 238, sub-section (4).	Failure to give notice of intention to occupy or vacate premises.	Thirty rupees.	
Section 243, sub-section (2).	Unauthorizedly taking water for use without Calcutta.	Fifty rupees.	
Section 246 ...	Requisition to fill up well ...	Twenty-five rupees	Five rupees.
Section 253, sub-section (1).	Constructing private street, wall or other structure over municipal drain.	One hundred rupees	Ten rupees.
Section 257, sub-section (1).	Unlawfully connecting house-drain with municipal drain.	One hundred rupees	Ten rupees.
Section 258 ...	Requisition to connect one house-drain with another in private street.	Twenty-five rupees	Five rupees.
Section 260 ...	Requisition on owner of premises to make house-drain and provide appliances or fittings, or to remove house-drain, etc.	Fifty rupees ...	Five rupees.
Section 261 ...	Requisition on owner of premises to make house-drain communicating with nearest municipal drain or closed cess-pool.	Fifty rupees ...	Five rupees.
Section 262 ...	Direction to owner of premises as to closing or limiting the use of house-drain.	Fifty rupees ...	Five rupees.
Section 263, sub-section (1).	Requisition to construct house-drain ...	Fifty rupees ...	Five rupees
Section 264 ...	Requisition on owner of courtyard, alley or passage to pave, repair and raise level of same.	Twenty-five rupees	Five rupees.

of 1923.]

(Part VIII—Chapter XXXVI.—Penalties—Section 488)

1	2	3	4
Sections, sub sections, clauses, provisos or rules	Subject	Fine which may be imposed	Daily fine which may be imposed
Section 265, sub section (2)	Requisition on owner of land to construct new drain for benefit of occupants of hut, and failure to maintain, etc, such drain	Fifty rupees ..	Five rupees
Section 266 ..	Construction, maintenance and regulation of drains	One hundred rupees	Twenty rupees
Section 268, sub section (2)	Keeping a public privy or urinal without license or suffering a licensed public privy or urinal to be in a filthy or noxious state	One hundred rupees	Fifty rupees.
Section 269 ...	Provision of privy and urinal accommodation for building	Fifty rupees	
Section 270, sub section (1)	Provision of privy and urinal and bathing or washing place for new building for twenty labourers	Fifty rupees	
Section 270, sub section (2)	Requisition on owner of premises to provide privy, urinal and other accommodation for twenty labourers	Fifty rupees	Five rupees
Section 271 ...	Requisition on owner of premises to provide or alter privy or urinal accommodation in premises where accommodation is not provided or is insufficient	Fifty rupees .	Five rupees
Section 272 ..	Requisition on owner to provide privies and urinals for premises used by large numbers of people	Two hundred rupees	Twenty rupees
Section 273 ...	Construction, maintenance and regulation of privies, urinals and appurtenances thereof in accordance with rules and by laws	Two hundred rupees	Twenty rupees
Section 278, sub-section (1)	Requisition on owner of premises to close, remove, renew or take other order with house drain, ventilation shaft or pipe, cesspool, house gully, privy or urinal	Fifty rupee .	Five rupees
Section 279, sub section (1)	Position of cesspools	Fifty rupees	
Section 279, sub-section (2)	Requisition to remove or fill up cesspools	Fifty rupees ...	Twenty rupees

(Part VIII.—Chapter XXXVI.—Penalties.—Section 488.)

1	2	3	4
Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
Section 280, sub-section (1).	Construction of house-drain, service privy, etc., within fifty feet of tank, well, etc.	Twenty rupees.	
Section 280, sub-section (2).	Requisition on owner of land to remove receptacle for sewage or offensive matter.	Twenty rupees ...	Five rupees.
Section 284, clause (b).	Requisition on owner of premises to alter, pave, repair, etc., house-drain, cesspool, privy or urinal.	One hundred rupees	Twenty rupees.
Section 285 ...	Requisition on occupier of premises to carry out work which owner may be required to carry out.	The amount which may be levied as fine on the owner in each case.	The amount which may be levied as daily fine on the owner in each case.
Section 287 ...	Prohibition of certain acts in connection with drainage, etc.	One hundred rupees	Twenty rupees.
Section 291, sub-section (1).	Prohibition of execution of certain work by persons other than licensed plumbers.	One hundred and fifty rupees.	
Section 291, sub-section (2).	Prohibition of owner or occupier of premises causing or allowing certain work to be executed by persons other than licensed plumbers.	Fifty rupees.	
Section 292, sub-section (2).	Prohibition of licensed plumber demanding or receiving more than prescribed charge.	One hundred rupees.	
Section 294, sub-section (1).	Prohibition of licensed plumber infringing rules, executing work carelessly or negligently, or using bad materials, appliances or fittings.	Fifty rupees.	
Section 299, sub-section (1).	Requisition on owner or occupier of building to remove or alter verandah, etc., or fixture.	One hundred rupees	Ten rupees.
Section 300, sub-section (1).	Requisition on person to remove wall ...	Fifty rupees ...	Ten rupees.
Section 303, sub-section (1).	(i) Prohibition of erection of, or addition to, building or wall within street alignment prescribed under section 302. (ii) Requisition to remove building erected or added within street alignment prescribed under section 302.	Two hundred and fifty rupees. Fifty rupees ...	Twenty-five rupees Ten rupees.

of 1923.]

(Part VIII.—Chapter XXXVI.—Penalties.—Section 488.)

1	2	3	4
Sections, sub-sections, clauses, provisos or rules	Subject	Fine which may be imposed	Daily fine which may be imposed
Section 303, sub-section (3)	Prohibition of erection of, or addition to, building between street alignment and building line prescribed under section 302	Two hundred rupees	Twenty rupees
Section 303, sub-section (4)	Requisition to remove building erected or added between street alignment and building line prescribed under section 302.	Fifty rupees	Ten rupees
Section 309	(a) Prohibition of erection of, or addition to, building or wall within street alignment of a street projected under section 308	Two hundred and fifty rupees	Twenty-five rupees
	(n) Requisition to remove building erected or added to on site between street alignment and building line of a street projected under section 308	Fifty rupees	Ten rupees
Section 315	Unlawfully making or laying out a private street	Two hundred and fifty rupees	Twenty-five rupees
Section 317, sub-section (f)	Requisition on owner of private street or owner or occupier of adjoining land to level, etc., such street	One hundred rupees	Ten rupees
Section 322, sub-section (2)	Prohibition of licensed building surveyor demanding or receiving more than the prescribed fee in the absence of a written contract	One hundred rupees	
Section 324, sub-section (6)	Erection of new building in contravention of declaration by the Corporation	Two hundred rupees	
Section 325	Prohibition of erection of building without permission or so as to deprive another building of proper means of access	Two hundred rupees	Fifty rupees
Section 326	Requisition upon owner of public building to make certain alterations in it for purposes of sanitation, etc.	Two hundred and fifty rupees	Fifty rupees
Section 327	Requisition on owner to provide public building with external doors or to cause such doors to open outwards	One hundred rupees	Ten rupees

(Part VIII.—Chapter XXXVI.—Penalties.—Section 488.)

1	2	3	4
Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
Section 328, sub-section (1).	Change in use of building without special permission.	Two hundred rupees in the case of a masonry building, and fifty rupees in the case of a hut.	Fifty rupees in the case of a masonry building, and ten rupees in the case of a hut.
Section 328, sub-section (2), proviso.	Requisition to close shop ...	Twenty-five rupees	Five rupees.
Section 334, sub-section (1).	Erecting or using building for temporary purpose without approval of Corporation.	Fifty rupees ...	Ten rupees.
Section 337, sub-sections (1) and (3).	Requisition on owner of <i>bustee</i> of certain area to carry out improvements.	Two hundred rupees	Twenty rupees.
Section 340 ...	Erecting or adding to hut in a <i>bustee</i> before preparation of plan by owner and approval of same.	Fifty rupees.	
Section 341 ...	Erecting or adding to hut in a <i>bustee</i> contrary to standard plan.	Twenty-five rupees.	
Section 342, sub-section (1).	Requisition on owner to remove hut in <i>bustee</i> not in conformity with standard plan.	Twenty-five rupees	Five rupees.
Section 343, sub-section (1).	Requisition on owner of <i>bustee</i> to construct drains, etc., and to fill up, etc., tanks, wells, etc., in accordance with standard plan.	Two hundred rupees	Twenty rupees.
Section 346 ...	Requisition on owners to carry out in <i>bustee</i> improvements indicated in Schedule A annexed to report under section 344.	Two hundred rupees	Twenty rupees.
Section 354, sub-section (2).	Failure to keep open private street in <i>bustee</i> for scavenging and other purposes and for use of tenants.	Fifty rupees ...	Ten rupees.
Section 355 ...	Failure to keep open bathing and privy accommodation in <i>bustee</i> for use of tenants.	Fifty rupees ...	Ten rupees.
Section 356, sub-section (2).	Requisition on owner to maintain in proper order streets, drains, etc., in <i>bustee</i> according to standard plan.	Two hundred rupees	Twenty rupees.
Section 356, sub-section (2), proviso.	Owner of hut to maintain convenience made by him for his own use.	Twenty-five rupees	Five rupees.

of 1923.]

(Part VIII.—Chapter XXXVI.—Penalties—Section 458)

1	2	3	4
Sections sub sections, clauses, provisions or rules	Subject	Fine which may be imposed	Daily fine which may be imposed
Section 356, sub section (3)	Requisition on tenant or tenants of <i>bustee</i> to repair street, passage, drain, etc	Two hundred rupees	Twenty rupees
Section 359, sub section (5)	Requisition on owner applying to re-erect huts to carry out improvements before re erecting such huts	One hundred rupees	Ten rupees
Section 360, sub section (1)	Erection of hut or portion of hut within alignment prescribed for private streets in <i>bustee</i> or other area	Fifty rupees	
Section 361, sub section (1)	Requisition on owners or occupiers to remove huts	Fifty rupees ..	Ten rupees
Section 362	Requisition on person erecting masonry building in <i>bustee</i> to leave space of fifteen feet from centre line of street	One hundred rupees	Twenty rupees
Section 363, sub section (1), clause (i)	Direction to alter or demolish work or structures	Two hundred and fifty rupees in the case of a masonry building and twenty five rupees in the case of a hut	Twenty five rupees in the case of a masonry building, and five rupees in the case of a hut
Section 364, sub section (1), clause (a)	Direction to alter or demolish certain structures	One hundred rupees	Fifty rupees
Section 365, sub section (1)	Requisition on person carrying on work unlawfully to stop work pending decision of Magistrate	Two hundred and fifty rupees	Fifty rupees
Section 368, sub section (1)	Constructing private street, building, wall or other structure over municipal gas pipe	One hundred rupees	Twenty rupees
Section 369	Keeping of animals	... .. Fifty rupees	... .. Five rupees
Section 371, sub section (2)	Provision of land in <i>bustee</i> when required for temporary deposit of rubbish, etc	Ten rupees	... .. Three rupees
Section 372, sub section (1)	Direction to collect rubbish and offensive matter and deposit it at or near entrance to premises	Ten rupees	
Section 372, sub section (2)	Direction to collect rubbish and offensive matter and deposit it in public receptacle	Ten rupees	

(Part VIII.—Chapter XXXVI—Penalties.—Section 488.)

1	2	3	4
Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
Section 372, sub-section (3).	Direction to collect rubbish and offensive matter and deposit it in lump in street or premises	Ten rupees.	
Section 373 ...	Direction to collect and remove rubbish and offensive matter accumulating on business premises or on premises in which building work is going on.	Ten rupees.	
Section 377, clause (b).	Prohibition of use by the public for bathing, etc., of any place not constructed therefor.	Ten rupees.	
Section 381, sub-section (3).	Using building declared unfit for human habitation.	Two hundred and fifty rupees.	Fifty rupees.
Section 382, sub-section (2).	Requisition on owner and occupier to demolish, or execute work on, building declared unfit for human habitation.	Two hundred and fifty rupees.	Fifty rupees.
Section 383 ...	Requisition on owner or occupier to furnish statement of occupants, accommodation, etc., of building.	Twenty-five rupees	Five rupees.
Section 384, sub-section (1)	Requisition on owner or occupier to abate overcrowding in building or room.	Twenty-five rupees	Five rupees.
Section 385, sub-section (1).	Establishing, or materially altering, enlarging or extending, factory, etc., without permission.	One thousand rupees	Two hundred rupees.
Section 386 sub-section (1).	Using premises for certain trades, etc., without license or contrary to terms of license.	Two hundred and fifty rupees.	Fifty rupees
Section 387, sub-section (5).	Using premises in declared area for any purpose referred to or mentioned in section 386.	Fifty rupees ..	Five rupees.
Section 388 ...	Failure to comply with direction of Magistrate in regard to use of premises proved to be a nuisance.	Five hundred rupees	One hundred rupees.
Section 389, sub-section (1).	Fouling water in carrying on trade or manufacture.	One thousand rupees	Two hundred rupees.
Section 390, sub-section (1).	Using eating-house, etc., without license or contrary to terms of license.	Fifty rupees ...	Five rupees.
Section 391 ...	Keeping open theatre, circus or other place of public amusement without license or contrary to terms of license.	Five hundred rupees	One hundred rupees.

of 1923.]

(Part VIII—Chapter XXVI—Penalties—Section 488.)

1	2	3	4
Sections sub-sections, clauses, provisions or rules	Subject	Fine which may be imposed	Daily fine which may be imposed
Section 394, sub-section (1)	Sale in municipal market without license	Twenty five rupees	
Section 395, sub-section (2)	Establishing new private market without sanction of Corporation	One thousand rupees	
Section 396, sub-section (1)	Keeping open, etc., private market permitting any place to be used as private market or using place as slaughter house or stock yard without license or contrary to terms of license	Two hundred rupees	Twenty five rupees
Section 398	Using as market a place which Magistrate has directed to be closed	One hundred rupees	Twenty rupees
Section 399	Requisition to pave and drain private market, bazar, private slaughter house or place set apart for sacrifice of animals, and to alter structures in private market	Fifty rupees	Ten rupees
Section 400, sub-sections (1) and (2)	Requisition on owner or occupier of private market or bazar to lay out, alter, etc., approaches, roads, passages and ways, and to provide conveniences for, and maintain, the same and to provide ventilation and lighting of market building	Fifty rupees	Ten rupees
Section 402, sub-section (2)	Destruction, etc., of by-laws and notice of charges posted up in market or slaughter house	Ten rupees	
Section 403, sub-section (2)	Requisition on tenant or agent to remove himself from market or slaughter house	Fifty rupees	Ten rupees
Section 405, sub-section (1)	Carrying on trade of butcher or selling animals, meat or fish outside market without license	One hundred rupees	Ten rupees
Section 406, sub-section (1)	Sale, etc., of adulterated or misbranded food or drug	Five hundred rupees	
Section 407, sub-section (1)	Sale, etc., of milk, butter, ghee, wheat flour, mustard oil, tea, edible oil or fat or notified article, which is not of the prescribed quality	Five hundred rupees	
Section 407, sub-section (2)	Sale, etc., of articles similar to milk, butter, ghee, etc.	Two hundred and fifty rupees	

(Part VIII.—Chapter XXXVI.—Penalties.—Section 488.)

1	2	3	4
Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
Section 408, sub-section (1).	Registration of manufactory of mustard oil or edible oils.	Fifty rupees ...	Five rupees.
Section 408, sub-section (2).	Keeping of register by owner or person in charge of manufactory of mustard oil or edible oils in regard to substances sent out from the manufactory.	Fifty rupees ...	Five rupees.
Section 410, sub-section (1).	Keeping or permitting to be kept substance intended to be used for adulteration of milk, butter, <i>ghee</i> , wheat flour, mustard oil, tea, edible oil or fat or notified article.	Two hundred and fifty rupees.	
Section 411 ...	Sale of tin or other receptacle containing separated or skimmed condensed milk, not properly labelled.	Two hundred and fifty rupees.	
Section 412, sub-section (1).	Sale of diseased or unwholesome animal or article intended for human food.	Two hundred and fifty rupees.	
Section 413, sub-section (1).	Keeping shop or place for retail sale of drugs without a license.	One hundred rupees	Twenty rupees.
Section 413, sub-section (2).	Display of license in premises ...	Fifty rupees ...	Ten rupees.
Section 415, sub-section (1).	Compounding, etc., drugs in licensed shop or place without certificate or permission.	Fifty rupees.	
Section 415, sub-section (2).	Employing unauthorized person to compound, etc., drugs in licensed shop or place.	Two hundred rupees.	
Section 419, sub-section (3).	Removing, interfering or tampering with animal, food, drug, etc., seized and left in custody.	Two hundred rupees.	
Section 424, sub-sections (1), (2) and (3).	Refusal to sell or surrender articles of food or drug required for purposes of analysis.	One hundred rupees.	
Section 428 ...	Sale of milk without license ...	One hundred rupees	Ten rupees.
Section 430 ...	Requisition to furnish a list of dairies from which the licensees' supply of milk is obtained.	Fifty rupees ...	Five rupees.

of 1923.]

(Part VIII.—Chapter XXXVI—Penalties—Section 488.)

1	2	3	4
Sections, sub sections, clauses, provisos or rules	Subject	Fine which may be imposed	Daily fine which may be imposed
Section 431, sub section (5)	Sale or supply of prohibited milk	Two hundred and fifty rupees for a first offence and five hundred rupees for any subsequent offence	
Section 433	Information of existence of dangerous disease	One hundred rupees	
Section 435	Medical practitioners to give information of existence of dangerous disease	Fifty rupees	
Section 437, sub section (2)	Removing or using, for the purpose of drinking or of washing clothes water which is likely to engender or spread a dangerous disease	Two hundred rupees	Twenty rupees
Section 438, sub section (2)	Removal to hospital of patient suffering from dangerous disease	One hundred rupees	
Section 439 sub section (1)	Requisition on occupier to vacate building or part thereof to a limit of disinfection	Fifty rupees	Ten rupees
Section 441	Letting infected building	Five hundred rupees	
Section 442, sub section (2)	Washing infected article at unauthorized place	One hundred rupees	
Section 442, sub section (3)	Direction to disinfect or destroy articles likely to retain infection	One hundred rupees	
Section 443 sub section (1)	Transmitting, etc, infected article	Two hundred rupees	
Section 444, sub section (1)	Infected person entering or causing or permitting himself to be carried in, or carrying of dead body in, public conveyance	Fifty rupees	
Section 444, sub section (3)	Carrying infected person or dead body in public conveyance	Two hundred rupees	
Section 445, sub section (1)	Taking public conveyance to appointed place for disinfection	Two hundred rupees	
Section 445 sub section (2)	Intimation of number, and disinfection of infected conveyance	Two hundred rupees	

(Part VIII.—Chapter XXXVI.—Penalties.—Section 488.)

1	2	3	4
Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
Section 445, sub-section (3).	Using infected public conveyance ...	Five hundred rupees.	
Section 446, sub-section (2).	Carrying infected persons or dead bodies in other than special conveyances without sanction of Health Officer.	Two hundred rupees.	
Section 451 ...	Information of birth ...	Ten rupees.	
Section 452 ...	Information of death ...	Ten rupees.	
Section 453 ...	Notice by medical practitioner to Health Officer stating cause of death.	Fifty rupees.	
Section 455 ...	Burying, burning or otherwise disposing of corpse without certificate.	One hundred rupees.	
Section 457, sub-section (1).	Registration of place for disposal of the dead, and depositing of plan in municipal office.	One hundred rupees.	
Section 459 ...	Opening or using place for disposal of the dead without permission.	Five hundred rupees.	
Section 460, sub-section (2).	Prohibition of use of place of public worship, etc., for disposal of the dead.	Five hundred rupees.	
Section 462, sub-section (1).	Making vault, grave or interment, or disposing of corpse, or exhuming corpse, in certain cases, without permission.	Five hundred rupees.	
Section 466, sub-section (2).	Census enumerators to obey written instructions of Superintendent.	Fifty rupees.	
Section 467, sub-section (1).	Certain persons to act as census enumerators.	Fifty rupees.	
Section 498, sub-section (5).	Production of license or written permission.	Fifty rupees ...	Ten rupees.
Section 509 ...	Obstructing Executive Officer or other person in entering into or upon premises.	Two hundred rupees for a first offence and five hundred rupees for any subsequent offence.	
Section 527, sub-section (3).	Occupiers to afford facilities to owner for complying with Act, rules, by-laws and requisitions	One hundred rupees	Twenty rupees.

of 1923.]

(Part VIII.—Chapter XXXVI—Penalties.—Section 488.)

1	2	3	4
Sections, sub sections, clauses, provisos or rules	Subject.	Fine which may be imposed	Daily fine which may be imposed
Section 549, sub section (1), clause (a)	Direction to owner of building to demolish the same.	Five hundred rupees in the case of a masonry building, and fifty rupees in the case of a hut	One hundred rupees in the case of a masonry building, and ten rupees in the case of a hut
Schedule XIV, rule 1, sub rule (2)	Requisition on owner to lay down separate service pipe from main for supply of water to his premises	Fifty rupees	Ten rupees
Schedule XIV, rule 2, sub-rule (1)	Obligation on owner to provide separate stop cocks for controlling supply of unfiltered water	Fifty rupees	Ten rupees
Schedule XIV, rule 3	Requisition on owner to fix outer stop-cock so as always to be accessible from nearest street	Fifty rupees	Ten rupees
Schedule XIV, rule 5, sub rule (3)	Executing works for supply of water otherwise than in presence of authorized municipal officer	Fifty rupees	
Schedule XIV, rule 7, sub rule (1)	Requisition on owner or occupier of premises to replace or alter fittings for supply of water	Fifty rupees	Five rupees
Schedule XIV, rule 12.	Fraud in respect of meter ...	One hundred rupees	
Schedule XIV, rule 13	Injuring meter or fittings thereof ..	One hundred rupees	
Schedule XV, rule 14, sub rule (2)	Requisition on owner or occupier of premises to repair, flush, cleanse, etc or take other order with house drain	Fifty rupees	Five rupees
Schedule XV, rule 15, sub rule (2)	Requisition on owner or occupier of premises to repair, flush, cleanse or empty joint house drain	Fifty rupees	Five rupees
Schedule XV, rule 16, sub rule (1)	Requisition on person laying private underground drain to alter or add to the work	Fifty rupees	Five rupees
Schedule XV, rule 17.	Unlawfully constructing drain so as to pass beneath a building.	One hundred rupees	
Schedule XV, rule 21, sub rule (1)	Attaching service privy or service urinal to inhabited portion of any building	Fifty rupees	Five rupees

(Part VIII.—Chapter XXVI.—Penalties.—Section 488.)

1	2	3	4
Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
Schedule XV, rule 22, sub-rule (1).	Placing service-privy or service-urinal on upper floor.	Twenty rupees ...	Five rupees.
Schedule XV, rule 22, sub-rule (2).	Requisition to convert service-privy or service-urinal into a connected-privy or connected-urinal.	Twenty rupees ...	Five rupees.
Schedule XV, rule 23, sub-rule (1).	Requisition to form a passage giving access to a privy or urinal from the street.	Twenty rupees ...	Five rupees.
Schedule XV, rule 38.	Requisition to alter privy or urinal ...	Twenty rupees ...	Five rupees.
Schedule XVI, rule 1, sub-rule (2).	Requisition to trim, prune or cut hedges and trees.	Ten rupees ...	Three rupees.
Schedule XVI, rule 2, sub-rule (1).	Erection of verandah supported by pillars resting on street.	Two hundred and fifty rupees.	Fifty rupees.
Schedule XVI, rule 2, sub-rule (2).	Placing roof on certain verandahs ...	One hundred rupees	Twenty rupees.
Schedule XVI, rule 2, sub-rule (3).	Putting up verandahs, etc., to project over street without permission.	Two hundred and fifty rupees.	Fifty rupees.
Schedule XVI, rule 2, sub-rule (5).	Requisition on owner or occupier of building to comply with condition subject to which permission was given to put up verandahs, etc., projecting over street.	One hundred rupees	Twenty rupees.
Schedule XVI, rule 2, sub-rule (6).	Requisition on owner or occupier of building to remove verandahs, etc., projecting over street.	One hundred rupees	Twenty rupees.
Schedule XVI, rule 3, sub-rule (1).	Erection or maintenance of sky-sign without permission.	Two hundred rupees	Fifty rupees.
Schedule XVI, rule 4, sub-rule (2)	Unlawfully removing fence or shoring-timber or removing or extinguishing light.	Fifty rupees.	
Schedule XVI, rule 5, sub-rule (3).	Unlawfully infringing order prohibiting traffic or removing bar, chain or post in street.	Fifty rupees.	
Schedule XVI, rule 6, sub-rule (2).	Unlawfully destroying, pulling down. etc., name of public street.	Twenty rupees.	

of 1923.]

(Part VIII—Chapter XXXVI.—Penalties.—Section 488.)

1	2	3	4
Sections sub-sections clauses, provisos or rules	Subject	Fine which may be imposed	Daily fine which may be imposed
Schedule XVI, rule 7, sub rule (2)	Unlawfully destroying, pulling down, etc., number of premises or affixing a private number	Twenty rupees	
Schedule XVII, rule 5, sub rule (1).	Requisition to provide staircases	Fifty rupees	Ten rupees
Schedule XVII, rule 5, sub rule (2)	Requisition to provide lift or similar contrivance	Fifty rupees	Ten rupees
Schedule XVII, rule 7, sub rule (1)	Construction of external roofs or walls of buildings with inflammable materials	Fifty rupees	Five rupees
Schedule XVII, rule 7, sub rule (2)	Requisition on owner of building to remove or alter external roof or wall	Twenty five rupees	Five rupees.
Schedule XVII, rule 19.	Sending written notice to Corporation before commencing to erect masonry building	Twenty five rupees	
Schedule XVII, rule 20	Sending written notice or certificate, or sending untrue certificate, to Corporation after completion of erection of masonry building	Forty rupees	
Schedule XVII, rule 22, sub rule (1)	Requisition on owner of building to make specified alterations	Two hundred and fifty rupees in the case of a masonry building, and twenty-five rupees in the case of a hut	Twenty five rupees in the case of a masonry building, and five rupees in the case of a hut
Schedule XVII, rule 55, sub rule (1) and sub rule (4)	Employment of licensed building surveyor or other competent person to supervise erection of certain masonry buildings	One hundred rupee	Ten rupees
Schedule XVII, rule 62	Erection of masonry building without written permission.	Two hundred rupees	
Schedule XVII, rule 64, sub rule (1)	Erection of masonry building without fresh permission after lapse of original permission	One hundred rupees.	
Schedule XVII, rule 88, sub rule (1)	Erection of hut without written permission	Fifty rupees	

(Part VIII.—Chapter XX XVI.—Penalties.—Section 488.)

1	2	3	4
Sections, sub-sections, clauses, provisos or rules.	Subject.	Fine which may be imposed.	Daily fine which may be imposed.
Schedule XVII, rule 89.	Erection of hut without fresh permission after lapse of original permission.	Twenty-five rupees.	.
Schedule XVIII, rule 2.	Requisition on owner or occupier to lime-wash or otherwise cleanse building.	Twenty-five rupees	Five rupees.
Schedule XVIII, rule 3.	Requisition on owner or person concerned to secure, enclose, cleanse or clear land or building which is untenanted, filthy or a nuisance.	Twenty-five rupees	Five rupees.
Schedule XVIII, rule 4, sub-rule (1).	Requisition on owner or occupier to take down, repair or secure wall, building or fixture in a ruinous state, etc.	Two hundred and fifty rupees.	One hundred rupees.
Schedule XVIII, rule 4, sub rule (2).	Requisition on inmate to vacate building in ruinous state, etc.	One hundred rupees	Fifty rupees.
Schedule XVIII, rule 6, sub-rule (1).	Requisition on owners or occupiers to execute works or take measures with respect to buildings or block of buildings in order to prevent risk of disease.	Five hundred rupees in the case of a masonry building or block of masonry buildings, and one hundred rupees in the case of a hut or block of huts.	One hundred rupees in the case of a masonry building or block of masonry buildings, and twenty rupees in the case of a hut or block of huts.
Schedule XVIII, rule 7, sub rule (1).	Requisition to cleanse, fill up or de-water well, pool, ditch, tank, pond or marshy ground, or to drain off or remove waste or stagnant water.	Two hundred rupees	Fifty rupees.
Schedule XVIII, rule 9, sub-rule (3).	Making excavation or digging cesspool, tank, pond, well or pit after prohibition.	One hundred rupees.	.
Schedule XVIII, rule 9, sub-rule (4).	Requisition on owner or occupier of land to fill up excavation, cesspool, tank, pond, well or pit unlawfully made.	Fifty rupees . . .	Five rupees.

of 1923.]

(Part VIII.—Chapter XXXVI.—Penalties.—Section 489)

489. Whoever commits any offence by contravening any provision of the section or any of the sub-sections of this Act mentioned in the first column of the following table shall, notwithstanding anything contained in section 488, be punished, for a second or subsequent offence, with fine or imprisonment, or with both, to the extent mentioned in the third column thereof.

Explanation—The entries in the second column of the following table, headed "Subject" are not intended as definitions of the offences described in the provisions mentioned in the first column, or even as abstracts of those provisions, but are inserted merely as references to the subject thereof—

1	2	3
Section or sub-sections	Subject	Maximum fine or imprisonment, or both, which may be imposed for a second or subsequent offence
Section 406, sub-section (1)	Sale, etc., of adulterated or misbranded food or drug	One thousand rupees, or imprisonment for three months, or both
Section 407, sub-section (1)	Sale, etc., of milk, butter, ghee, wheat flour, mustard oil, tea, edible oil or fat or notified article, which is not of the prescribed quality	One thousand rupees or imprisonment for three months, or both
Section 407, sub-section (2)	Sale, etc., of articles similar to milk, butter, ghee, etc.	Five hundred rupees, or imprisonment for three months, or both
Section 410, sub-section (1)	Keeping or permitting to be kept substance intended to be used for adulteration of milk, butter, ghee, wheat flour, mustard oil, tea, edible oil or fat or notified article	Five hundred rupees, or imprisonment for three months, or both
Section 411	Sale of tin or other receptacle containing separated or skinned condensed milk, not properly labelled.	Five hundred rupees, or imprisonment for three months, or both.
Section 412, sub-section (1)	Sale of diseased or unwholesome animal or article intended for human food	Five hundred rupees, or imprisonment for three months or both.

Certain offences punishable with increased fine or imprisonment, or both, for a second or subsequent conviction

(Part VIII.—Chapter XXXVI.—Penalties.—Sections 490—493.)

Punishment for contravening rule made under section 447.

Punishment for acquiring share or interest in contract, etc., with the Corporation.

Fine for not taking out certain licenses.

Fine for unlawfully commencing, carrying on or completing building work.

490. Whoever contravenes any provision of any rule made under section 447 shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code.¹

XLV of 1860.

491. If any municipal officer or servant knowingly acquires, directly or indirectly, by himself or a partner or employer or employé, otherwise than as such officer or servant, any share or interest in any contract or employment with, by, or on behalf of, the Corporation, not being a share or interest such as, under clause (ii) or clause (iv) of proviso (a) to sub-section (1) of section 22, it is permissible for a Councillor or an Alderman to have without being thereby disqualified for being a Councillor or an Alderman, he shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code.¹

492. (1) If any person—

- (a) owns or is in charge of any carriage or animal liable to any tax imposed under Chapter XI, or
- (b) exercises on or after the first day of July in any year, any profession, trade or calling referred to in Chapter XII, or
- (c) exercises on or after the first day of June or the first day of December in any year any calling referred to in Chapter XIII,

without having the license prescribed by those chapters, respectively, he shall be punished with fine which—

- (i) may extend to three times the amount payable in respect of such license, and
- (ii) shall not ordinarily be less than one-and-a-half times such amount.

(2) Such fine, when levied, shall be taken in full satisfaction of the demand on account of the said license.

(3) The provisions of this section shall apply to any person who, having compounded for the payment of a certain sum under section 170, fails to pay such sum, the amount due for a license being taken as the amount so compounded for.

493. If the erection of any new building—

- (a) is commenced without obtaining the written permission of the Corporation, or
- (b) is carried on or completed otherwise than in accordance with the particulars on which such permission was based, or

of 1923.]

(Part VIII.—Chapter XXXVI —Penalties —Sections
494, 495)

(c) is carried on or completed in breach of any provision contained in this Act or in any rules or by-laws made thereunder, or of any direction or requisition lawfully given or made under this Act or such rules or by-laws, or

if any alteration of, or addition to, any building or any other work made or done for any purpose in, to or upon any building is commenced, carried on or completed in breach of section 330,

the owner of the building shall be liable to fine which may extend in the case of a masonry building to five hundred rupees and in the case of a hut to fifty rupees, and to further fine which may extend in the case of a masonry building to one hundred rupees and in the case of a hut to ten rupees for each day during which the offence is continued after the first day:

Provided that where an application has been made under section 363 or section 364, no proceedings shall be instituted by the Corporation under this section.

494. When a new building has been erected, or when any building has been altered or added to after a statement has been made, under rule 53 or rule 81 of Schedule XVII, that it was intended to use the building or any substantial part thereof for any of the purposes specified in Schedule XIX, or as a stable, cattle-shed or cow-house, then any person putting the building or such part thereof to any use other than that so stated shall be liable,—

Fine for putting building to other than declared use

(a) in the case of a masonry building, to fine which may extend to two hundred and fifty rupees, and to further fine which may extend to fifty rupees for every day after the first during which he continues such use, and,

(b) in the case of a hut, to fine which may extend to twenty-five rupees, and to further fine which may extend to five rupees for every day after the first during which he continues such use.

495. When a new building has been erected, or when any building has been altered or added to under this Act without any statement having been made under rule 53 or rule 81 of Schedule XVII, that it was intended to use the building or any substantial part

Fine for using building for carrying on offensive trade without previous declaration

(Part VIII.—Chapter XXXVI.—Penalties.—Part IX.—Chapter XXXVII.—Procedure.—Sections 496—498.)

thereof for any of the purposes specified in Schedule XIX, or as a stable, cattle-shed or cow-house, then any person using the building or such part thereof for any of those purposes shall be liable,—

(a) in the case of a masonry building, to fine which may extend to two hundred and fifty rupees, and to further fine which may extend to fifty rupees for every day after the first during which he continues such use, and,

(b) in case of a hut, to fine which may extend to twenty-five rupees, and to further fine which may extend to five rupees for every day after the first during which he continues such use.

Penalty on
mehlers, etc.,
withdrawing from
work without
notice.

496. Any *mehler* or other servant of the Corporation referred to in section 376 who withdraws from his duties in contravention of that section shall be punished with fine which may extend to fifty rupees, or with simple imprisonment for a term which may extend to three months, or with both, and shall be liable to forfeit any salary which may be due to him.

Penalty for
obstructing con-
tractor or remov-
ing mark.

497. Any person who, in contravention of section 555, obstructs or molests any person with whom the Corporation have entered into a contract, or, in contravention of section 556, removes any mark, shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to two months.

PART IX.

CHAPTER XXXVII.

PROCEDURE.

Licenses and written permissions.

Duration, con-
ditions, signature,
suspension, re-
vocation and
production of
licenses and
written permis-
sions.

498. (1) Every license and written permission granted under this Act or under any rule or by-law made thereunder shall be signed by the Executive Officer and shall specify—

- (a) the date of the grant thereof;
- (b) the purpose and the period (if any) for which it is granted;

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(Part IX.—Chapter XXXVII.—Procedure.—
Section 499.)

(c) the restrictions and conditions (if any) subject to which it is granted;

(d) the name of the person to whom it is granted; and

(e) the tax or fee, if any, paid for the license or written permission.

(2) Except when it is in this Act or in any rule or by-law made thereunder otherwise expressly provided, for every such license or written permission a fee may be charged at such rate as may from time to time be fixed by the Corporation, and such fee shall be payable by the person to whom the license is granted.

(3) Subject to the provisions of proviso (i) to sub-section (1) of section 396, any license or written permission granted under this Act or under any rule or by-law made thereunder may at any time be suspended or revoked by the authority by whom it was granted, if any of its restrictions or conditions is infringed or evaded by the grantee, or if the grantee is convicted of a breach of any of the provisions of this Act or of any rule or by-law made thereunder in any matter to which such license or permission relates.

(4) When any such license or written permission is suspended or revoked, or when the period for which the same was granted has expired, the grantee shall for all purposes of this Act or of any rule or by-law made thereunder be deemed to be without a license or written permission until such time (whether within the said period or otherwise) as the authority granting the same may see fit to cancel the order suspending or revoking the license or written permission, or until the license or written permission is renewed, as the case may be.

(5) Every grantee of any such license or written permission shall at all reasonable times, while such license or written permission remains in force, produce the same at the request of the Executive Officer.

Public notices and advertisements.

499. Every public notice given under this Act or under any rule or by-law made thereunder shall be in writing under the signature of the Executive Officer, and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of drum or by

Public notices
how to be made
known.

*(Part IX.—Chapter XXXVII.—Procedure.—
Sections 500—504.)*

advertisement in local newspapers, or by any two or more of these means, and by any other means that the Executive Officer may think fit.

Newspapers in which advertisements or notices to be published.

500. Whenever it is provided by this Act or by any rule or by-law made thereunder that notice shall be given by advertisement in local newspapers, or that a notification or any information shall be published in local newspapers, such notice, notification or information shall be inserted, if practicable, in at least two English newspapers and two vernacular newspapers published in Calcutta.

Evidence.

Proof of consent, etc., of Corporation or municipal officer.

501. Whenever under this Act or under any rule or by-law made thereunder the doing or the omitting to do anything or the validity of anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of—

- (a) the Corporation, or
- (b) any municipal officer,

as the case may be, a written document signed in case (a) by the Secretary to the Corporation, and in case (b) by the said municipal officer, purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence thereof.

Signature and service of notices, etc.

Signature on notices, etc., may be stamped.

502. (1) Every license, written permission, notice, bill, summons or other document which is required by this Act or by any rule or by-law made thereunder to bear the signature of any municipal officer, shall be deemed to be properly signed if it bears a facsimile of the signature of such municipal officer stamped thereupon.

(2) Nothing in sub-section (1) shall be deemed to apply to a cheque drawn upon the Municipal Fund under section 83.

Notices, etc., by whom to be served or issued.

503. All notices, bills, summonses and other documents required by this Act or by any rule or by-law made thereunder to be served upon, or issued to, any person, shall be so served or issued by municipal officers or servants or by other persons authorized by the Executive Officer in that behalf.

Service how to be effected on owner or occupier of premises.

504. When any notice, bill, summons or other document is required by this Act or by any rule or by-law made thereunder to be served upon or issued

of 1923.]

(Part IX.—Chapter XXXVII—Procedure—Section 505)

to any person as owner or occupier of any land or building, it shall not be necessary to name the owner or occupier in the document, and the service or issue thereof shall be effected—

- (a) by giving or tendering such document to the owner or occupier.

Provided that if there is more than one owner or occupier and it is not in the opinion of the Corporation practicable to serve the document on every one of them, the Corporation may serve the document on any one or more of them as they think fit,

- (b) if the owner or occupier is not found, by giving or tendering such document or by sending it by registered post to any adult male member of the family, or to a servant in the employ, of the owner or occupier or of any one of the owners or occupiers; or,

- (c) if none of the means mentioned in clause (a) or clause (b) be available, by causing a notice on yellow paper in the form prescribed in Schedule XXIII, or in a form to the like effect, setting forth the substance of such document, to be affixed on some conspicuous part of the land or building to which the document relates.

505. When any notice, bill, summons or other document is required by this Act or by any rule or by-law made thereunder to be served upon or issued to any person otherwise than as owner or occupier of any land or building, such service or issue shall be effected—

Service how to be effected other wise than on owner or occupier of premises

- (a) by giving or tendering such document to such person; or,
- (b) if such person is not found, by leaving such document at his last known place of abode or business in Calcutta, or by giving or tendering the same or by sending it by registered post to any adult male member of his family or servant in his employ, or,
- (c) if such person does not reside in Calcutta and his address elsewhere is known to the Executive Officer, by forwarding such document to him by registered post under cover bearing the said address; or,

(Part IX.—Chapter XXXVII.—Procedure.—Sections 506, 507.)

(d) if none of the means referred to in clauses (a), (b) or (c) be available, by causing a notice on yellow paper in a form prescribed in Schedule XXIII, or in a form to the like effect, setting forth the substance of such document, to be affixed on some conspicuous part of the land or building (if any) to which the document relates.

Sections 503 to 505 not to apply to Magistrate's summons.

506. Nothing in sections 503, 504 and 505 shall apply to any summons issued under this Act by a Magistrate.

Powers of entry.

Power to Executive Officer to enter premises to inspect, survey, etc., and to use force in certain cases.

507. (1) The Executive Officer may enter into or upon any premises, with or without assistants or workmen, in order to make any inspection, survey, measurement, valuation or inquiry, or execute any work which is authorized by this Act or by any rule or by-law made thereunder, or which, in his opinion, it is necessary for any of the purposes or in pursuance of any of the provisions of this Act or of any such rule or by-law, to make or execute:

Provided as follows:—

- (a) except when it is in this Act or in any rule or by-law made thereunder otherwise expressly provided, no such entry shall be made between sunset and sunrise;
- (b) except when it is in this Act or in any rule or by-law made thereunder otherwise expressly provided, no dwelling-house, and no public building or hut which is used as a dwelling-place, shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry;
- (c) notwithstanding any power to enter any premises conferred upon the Executive Officer by this Act or by any rule or by-law made thereunder, sufficient notice of such entry shall in every instance be given to the inmates of any apartment appropriated to females to withdraw to some part of the premises where their privacy is not disturbed;

of 1923.]

(Part IX.—Chapter XXXVII—Procedure—Sections 511—513)

511. (1) Any person who is served with a written notice in which a period for receiving objections has been prescribed under clause (b) of sub-section (1) of section 510 may, within the said period, deliver to the Corporation or the municipal officer by whom it was issued a written objection setting forth any reasons which he may desire to urge for the withdrawal or modification of the notice

Submission of
objections to com-
plying with
notice

(2) If any such objection be delivered before the expiration of the said period, the execution of the work shall be postponed until the Corporation or the municipal officer by whom the notice was issued has passed orders on the objection

(3) If the objector has stated in his written objection that he wishes to be heard in person he shall be entitled to be so heard, and the objection shall be considered in his presence, at a time to be fixed by notice issued in this behalf by the Corporation or the municipal officer by whom the notice was issued

512. (1) Any person on whom a written notice referred to in section 511, sub-section (1), has been served may,—

Right of person
served with notice
to require estimate
of expenses of
work

(a) instead of delivering an objection under section 511, or

(b) at the time of delivering such an objection,

apply, within the period prescribed in clause (b) of sub-section (1) of section 510, to the Corporation or the municipal officer by whom the notice was issued for an estimate of the expenses which would be incurred if the notice were enforced under section 510, sub-section (2), and, on receipt of such an application, the Corporation or the said officer shall supply such estimate

(2) If the Corporation or the said officer fail to supply such estimate, not more than five rupees shall be charged to the said person for any work executed by the Executive Officer by way of enforcing the said notice under section 510.

513. (1) If any estimate supplied under section 512 in respect of any work referred to in any written notice exceeds three hundred rupees, no work shall be executed by the Executive Officer by way of enforcing the said notice until the expiration of a fortnight from the date on which the estimate was so supplied.

Reference of
objections to
Corporation or to

(2) Within a period of seven days from the said date, the person on whom the notice was served may

(Part IX.—Chapter XXXVII.—Procedure.—Sections 514, 515.)

apply in writing to have his objections to the execution of the work or to the estimated cost of the work determined by the Corporation;

and, if such application be made within the said period, no work shall be executed under section 510. by way of enforcing the said notice, until the Corporation have disposed of such objections.

Recovery of expenses.

Power to Corporation to accept agreement for payment of expenses in instalments.

514. Whenever under this Act or under any rule or by-law made thereunder the expenses of any work executed or of any measure taken or thing done by, or under the order of, the Corporation, any Magistrate or any municipal officer empowered under section 12 in this behalf, are payable by any person, the Corporation may, if they think fit, instead of recovering any such expenses in any other manner provided in this Act or in any rule or by-law made thereunder, take an agreement from the said person to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon at the rate of not less than six *per centum per annum*, within a period of not more than six years.

Power to Corporation to declare certain expenses to be improvement expenses.

515. (1) If any expenses to be recovered have been incurred or are to be incurred in respect of any work mentioned—

(a) in section 258, section 260, section 263, sub-section (1), section 271, section 278, section 317, section 347, section 399 or section 400, sub-section (1), clause (b), or rule 5 of Schedule XIV, or rule 7 of Schedule XVIII, or

(b) in any rule or by-law made under this Act by which this section is made applicable to such expenses,

the Corporation may, if they think fit, declare such expenses to be improvement expenses.

(2) A register shall be maintained by the Corporation showing all expenses declared to be improvement expenses under this section, and such register shall be open to inspection by any person upon payment of such fee as may from time to time be prescribed by the Corporation.

of 1923.]

(Part IX.—Chapter XXXVII—Procedure—Sections
516—519)

516. (1) Improvement expenses, as declared under section 515, shall be a charge on the premises in respect of which or for the benefit of which the same have been incurred, and shall be recoverable in instalments of such amounts, and at such intervals, as will suffice to discharge such expenses, together with interest thereon at the rate of not less than six *per centum per annum*, within such period, not exceeding thirty years, as the Corporation may in each case determine

Improvement
expenses how
recoverable and
by whom pay-
able.

(2) The said instalments shall be payable by the owner or occupier of the premises on which the expenses are so charged

Provided that when the occupier pays any such instalment he shall, subject to any agreement to the contrary between the owner and the occupier, be entitled to deduct the amount thereof from the rent payable by him to the owner or to recover the same from the owner in any Court of competent jurisdiction

517. At any time before the expiration of the period for the payment of any improvement expenses, the owner or occupier of the premises on which the expenses are charged may redeem such charge by paying to the Corporation such part of the said expenses as are still payable

Right of owner
or occupier to
redeem charge for
improvement ex-
penses

518. Whenever the owner of any land or building fails to execute any work which he is required to execute under this Act or under any rule or by-law made thereunder, the occupier (if any) of such land or building may, with the approval of the Executive Officer, execute the said work, and he shall, subject to any agreement to the contrary between the owner and the occupier, be entitled to recover from the owner the reasonable expenses incurred by him in so doing and may deduct the amount thereof from the rent payable by him to the owner

Execution of
work by occupier
in default of
owner, and de-
duction of ex-
penses from rent

519. (1) Whenever any person, by reason of his—

Relief to
receivers, agent
and trustees

(a) receiving the rent of immovable property as a receiver, agent or trustee, or

(b) being is a receiver, agent or trustee the person who would receive the rent if the property were let to a tenant,

would, under this Act or under any rule or by-law made thereunder, be bound to discharge any obligation imposed thereby on the owner of the property

(Part IX.—Chapter XXXVII.—Procedure.—Sections 520—522.)

and for the discharge of which money is required, and such person has not in his hands funds belonging or payable to the owner sufficient for the purpose,

he shall, within a reasonable time from the service upon him of any notice from the Corporation or any municipal officer empowered under section 12 in this behalf requiring him to discharge the said obligation, be bound to apply to a Court of competent jurisdiction for leave to raise the necessary funds or for such other directions in relation thereto as the circumstances of the case may require.

(2) Any receiver, agent or trustee who fails to apply to the Court under sub-section (1) shall be deemed to be personally liable to discharge the said obligation.

Payment of compensation.

520. In any case not otherwise expressly provided for in this Act or in any rule or by-law made thereunder, the Corporation may pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act, or by any such rule or by-law, in the Corporation or in any municipal officer or servant.

521. (1) Any person who has been convicted of an offence against this Act or against any rule or by-law made thereunder shall, notwithstanding any punishment to which he may have been sentenced for the said offence, be liable to pay such compensation for any damage to any property of the Corporation resulting from the said offence as the Corporation may consider reasonable.

(2) In the event of dispute regarding the amount of compensation payable under sub-section (1), such amount shall, on application made to him, be determined by the Magistrate before whom the said person was convicted of the said offence; and, on non-payment of the amount of compensation so determined, the same shall be recovered under a warrant from the said Magistrate as if it were a fine inflicted by him on the person liable therefor.

Recovery of expenses or compensation in case of dispute.

522. (1) If, when the Corporation demand payment of any expenses referred to in section 514, their right to demand the same or the amount of the demand is disputed, the Corporation shall refer the

General power
to Corporation to
pay compensa-
tion.

Compensation to
be paid by offend-
ers for damage
caused by them.

Reference by
Corporation to
Small Cause Court
in certain cases.

of 1923.]

(Part IX—Chapter XXXVII—Procedure—Sections 523—526)

case for the determination of the Court of Small Causes having local jurisdiction, or if the amount involved exceeds two thousand rupees, to the High Court

(2) The Corporation shall, pending the decision on any such reference, defer further proceedings for the recovery of the sum claimed by them, and shall, after the decision, proceed to recover only such amount (if any) as is thereby declared to be due

523. (1) Where in any case not provided for by section 522, the Corporation are, or any municipal officer or servant or any other person is, required by this Act or by any rule or by-law made thereunder to pay any expenses or any compensation, the amount to be so paid and, if necessary, the apportionment of the same, shall, in case of dispute, be determined by the Court of Small Causes having local jurisdiction, or by the High Court, as the case may be, on application being made to it for this purpose at any time within one year from the date when such expenses or compensation first became claimable

Application to
Small Cause
Court in other
cases

(2) This section shall not apply to any case which is otherwise provided for in section 421, sub-section (3), section 521, sub-section (2), or section 535, sub-section (2), or in the Land Acquisition Act, 1894, as amended by section 475 of this Act

524. If the amount of any expenses or compensation determined in accordance with section 523 is not paid on demand by the person liable to pay the same, it shall be recoverable as if the same were due under a decree of the Court of Small Causes

Recovery of
sums ascertained
under section 523
to be due

525. Instead of proceeding in any manner heretofore prescribed for the recovery of any expenses or compensation of which the amount due has been ascertained as hereinbefore provided, or after such proceedings have been taken unsuccessfully or with only partial success, the Corporation or any other person claiming the sum due or the balance of the sum due, as the case may be, may recover such amount by suit brought in any Court of competent jurisdiction against the person liable for the same.

Power to sue
for expenses or
compensation

Recovery of certain dues

526. In any case not expressly provided for in this Act or in any rule or by-law made thereunder, any sum due to the Corporation on account of any charge, costs, expenses, fees, rates or rent or on any other account under this Act or under any such rule

Recovery of
certain dues by
distress and sale

of 1923.]

(Part IX—Chapter XXXVII—Procedure—Section 529)

Courts Act, is the case may be, so far as the same are applicable

(2) If, in any such inquiry or proceeding, the person against whom the complaint or application has been made fails to appear, notwithstanding that he has been duly summoned for this purpose, the said Court may hear and determine the case in his absence

(3) The costs of every such inquiry or proceeding, as determined by the said Court, shall be payable by such parties and in such proportions as the said Court may direct, and the amount thereof shall, if necessary, be recoverable as if the same were due under a decree of the said Court

529. (1) The Local Government may, by notification in the *Calcutta Gazette*, prescribe what fee (if any) shall be paid—

Fee in proceedings before Small Cause Courts.

(a) on any application, appeal or reference made under this Act to a Court of Small Causes, and

(b) for the issue, in connection with any inquiry or proceeding of any such Court under this Act, of any summons or other process

Provided that the fees (if any) prescribed under clause (a) shall not, in cases in which the value of the claim or subject-matter is capable of being estimated in money, exceed the fees leviable, for the time being, under the provisions of the Presidency Small Cause Courts Act, 1882¹, or the Provincial Small Cause Courts Act, 1887², as the case may be, in cases in which the value of the claim or subject-matter is of like amount

(2) The Local Government may, by a like notification, determine by what person any fee prescribed under clause (a) of sub-section (1) shall be payable.

(3) No application, appeal or reference shall be received by any Court of Small Causes until the fee (if any) prescribed therefor under clause (a) of sub-section (1) has been paid

Provided that the said Court may, in any case, in which it thinks fit so to do,—

(i) receive an application, appeal or reference made by or on behalf of a poor person, and

(ii) issue process on behalf of any such person,

without payment or on part payment of the fees prescribed under this section.

¹ General Acts, Vol III
² General Acts, Vol IV.

(Part IX.—Chapter XXXVII.—Procedure.—
Sections 530—532.)

Repayment of
half-fees on settle-
ment before hear-
ing.

530. Whenever any application, appeal or reference made under this Act to a Court of Small Causes, is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the said Court to the parties by whom the same have respectively been paid.

Proceedings before Magistrates.

Municipal
Magistrates.

531. (1) The Local Government may appoint one or more Magistrates for the trial of offences against—

(a) this Act, and

(b) the rules or by-laws made thereunder,

and may prescribe the times and places at which such Magistrate or Magistrates shall sit for the despatch of business.

(2) Such Magistrates shall be called Municipal Magistrates, and shall, if they are stipendiary, be paid such salary, pension and leave-allowances by the Local Government as may from time to time be fixed by the Local Government.

(3) The Corporation shall, out of the Municipal Fund, pay to the Local Government the amounts of the salary, pension and leave-allowances as fixed under sub-section (2), together with the cost of the establishments of the said Magistrates, and all other incidental charges in connection with such establishments.

(4) Each such Magistrate shall have jurisdiction over the whole of Calcutta.

Cognizance of
offences.

532. All offences against this Act or against any rule or by-law made thereunder, whether committed in or without Calcutta, shall be cognizable by any Magistrate having jurisdiction in Calcutta; and such Magistrate shall not be deemed to be incapable of taking cognizance of any such offence or of any offence against any enactment hereby repealed by reason only of his being—

(a) liable to pay any municipal rate or other tax,
or

(b) benefited by the Municipal Fund to the credit of which any fine imposed by him shall be payable.

of 1923.]

(Part IX.—Chapter XXXVII—Procedure—Sections 533—535)

533. If any person summoned to appear before a Magistrate to answer a charge of an offence against this Act or against any rule or by-law made thereunder fails to appear at the time and place mentioned in the summons, the Magistrate may, if—

Power to Magistrate to hear case in absence of accused when summoned to appear

(a) service of the summons is proved to his satisfaction, and

(b) no sufficient cause is shown for the non-appearance of such person,

hear and determine the case in his absence

534. (1) No person shall be liable to punishment for any offence against this Act or against any rule or by-law made thereunder, unless complaint of such offence is made before a Magistrate within three months, or, if the offence be against the provisions of section 136, within six months, next after—

Limitation of time for prosecution

(a) the date of the commission of such offence, or,

(b) if such date is not known or the offence is continuous in its nature, the date on which the commission or existence of such offence was first brought to the notice of the Corporation or the Executive Officer.

(2) Failure to take out a license under this Act shall be deemed, for the purposes of sub-section (1), to be a continuing offence until the expiration of the period for which the license is required to be taken out

(3) When, before the expiration of the period of limitation prescribed by sub-section (1) for a prosecution for failure to comply with a requisition made by the Corporation under sections 313, 314 or 316, a notice under section 359, sub-section (1), has been sent to the Corporation by any person to whom such requisition has been addressed, a fresh period of limitation of three months for such prosecution shall be computed from the expiration of the period of six months or more referred to in section 359, sub-section (3).

535. (1) The Corporation, or any person who resides or owns property in Calcutta, may complain to a Magistrate of the existence of any nuisance.

Complaints concerning nuisances, and procedure thereupon

(Part IX.—Chapter XXXVII.—Procedure.—
Sections 536, 537.)

(2) Upon receipt of any such complaint, the Magistrate, after making such inquiry as he thinks necessary, may, if he sees fit, by written order direct the Corporation—

- (a) to put in force any of the provisions of this Act or of the rules or by-laws made thereunder, or to take such measures as to such Magistrate may seem practicable and reasonable for preventing, abating, diminishing or remedying such nuisance;
- (b) to recover the expenses of so doing from any person specified in this behalf in such order; and
- (c) to pay to the complainant such reasonable costs of and relating to the said complaint and order as the said Magistrate shall determine, inclusive of compensation for the complainant's loss of time in prosecuting such complaint.

Power to Magistrate to direct demolition and payment of fine in respect of unlawful work.

536. When under this Act or under any rule or by-law made thereunder any person is liable, in respect of any unlawful work,—

- (a) to pay a fine, and
- (b) to be required to demolish the work,

a Magistrate may, in his discretion and subject to the provisions of sections 363, 364 and 493, direct the said person to pay the fine and also to demolish the work.

Legal proceedings.

Power to Corporation to institute, etc., legal proceedings and obtain legal advice.

537. The Corporation may,—

- (a) institute, defend or withdraw from legal proceedings under this Act or under any rule or by-law made thereunder;
- (b) compound any offence against this Act or against any rule or by-law made thereunder which, under any enactment for the time being in force, may lawfully be compounded;
- (c) admit, compromise or withdraw any claim made under this Act or under any rule or by-law made thereunder; and

of 1923.]

(Part IX—Chapter XXXVII—Procedure—
Sections 538, 539)

- (d) obtain such legal advice and assistance as they may from time to time think it necessary or expedient to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vesting in or imposed upon the Corporation or any municipal officer or servant

538. (1) No suit shall be instituted against the Corporation or any municipal officer or servant or any person acting under the direction of the Corporation or any municipal officer or servant in respect of any act purporting to be done under this Act or under any rule or by-law made thereunder, until the expiration of one month next after written notice has been delivered or left at the municipal office or the residence of such officer, servant or person, stating—

Notice of institution and tender of amends in suit against the Corporation etc

- (a) the cause of action,
(b) the name and residence of the intending plaintiff, and
(c) the relief which he claims

(2) Every such suit shall be commenced within four months next after the accrual of the cause of action, and the plaint therein shall contain a statement that a notice has been delivered or left as required by sub-section (1)

(3) If the Corporation or any person to whom any notice is given under sub-section (1), tender sufficient amends to the plaintiff before the suit is instituted, the suit shall be dismissed

(4) If no such tender be made, the Corporation or such person may pay into Court such sum of money as they or he think fit, and thereupon such proceedings shall be had as in other cases in which defendants are allowed to pay money into Court.

(5) Nothing in the foregoing sub-sections shall apply to any suit instituted under section 51 of the Specific Relief Act, 1877¹

539. No suit shall be maintainable against the Corporation or any municipal officer or servant, or any person acting under the direction of the Corporation or any municipal officer or servant, or of a Magistrate, in respect of anything done lawfully and in good faith and with due care and attention under this Act or under any rule or by-law made thereunder.

Indemnity to the Corporation, etc

(Part X.—Chapter XXXVIII.—Supplemental provisions.—Sections 540—542.)

PART X.

CHAPTER XXXVIII.

SUPPLEMENTAL PROVISIONS.

Extension of Act to Howrah and to other municipalities in the neighbourhood of Calcutta.

Power to Local Government to notify intention to extend Act to Howrah or other neighbouring municipality.

540. The Local Government may, by notification published in the *Calcutta Gazette* and in such other manner as they may determine, declare their intention to extend to the Municipality of Howrah or to any other municipality in the neighbourhood of Calcutta, or to any part thereof, subject to the modifications and restrictions (if any) specified in such notification, all or any portions of this Act which do not already apply thereto.

Power to Local Government to extend Act after considering objections.

541. (1) The Commissioners of the Municipality of Howrah or of such other neighbouring municipality as may be specified in a notification published under section 540, or any inhabitants or rate-payers thereof, may, if they object to the declaration contained therein, submit their objection in writing to the Local Government within such period as may be specified in this behalf in the said notification; and the Local Government shall take such objections into consideration.

(2) When the said period has expired, and the Local Government have considered the objections (if any) which have been submitted under subsection (1), the Local Government may, by notification in the *Calcutta Gazette*, extend to the Municipality of Howrah or to the said neighbouring municipality, or to the part thereof specified in the said notification, as the case may be, all or any of the portions of this Act which were specified in that notification, subject to the modifications and restrictions (if any) specified therein or subject to such other modifications or restrictions (if any) as the Local Government may think fit, or without modification or restriction of any kind.

Effect of extension of Act.

542. If all or any portions of this Act which do not already apply to the Municipality of Howrah or to any other municipality in the neighbourhood of

of 1923.]

(Part X—Chapter XXXVIII—Supplemental provisions—Section 543)

Calcutta be extended to such municipality, or to any part thereof, under section 541, then—

- (a) the Bengal Municipal Act, 1884¹, or the corresponding portions of that Act as the case may be shall be repealed in the said municipality or part on and from the date of such extension, and,
- (b) except as the Local Government may otherwise by notification in the *Calcutta Gazette* direct, all rules, by-laws, orders, directions and powers made, issued or conferred under the portions of this Act which have been so extended and in force at the date of such extension, shall apply to the said municipality or part, in supercession of all corresponding rules, by-laws, orders, directions and powers made, issued or conferred under the said Bengal Municipal Act 1884¹.

Explanation—The extension to the Municipality of Howrah or to any other municipality in the neighbourhood of Calcutta, or to any part thereof, of any portion of this Act shall not have the effect of placing the said municipality or part under the authority of the Corporation of Calcutta.

Inclusion of areas in the neighbourhood of Calcutta within Calcutta

543. (1) The Local Government may, by notification published in the *Calcutta Gazette* and in such other manner as they may determine, declare their intention to include any specified area in the neighbourhood of Calcutta within the limits of Calcutta, to be administered by the Corporation under this Act.

lower to Local Government to include certain areas within Calcutta

(2) The local authority having jurisdiction in the said area or any of the inhabitants thereof, may, if they object to such declaration, submit their objection in writing to the Local Government within such period as may be specified in this behalf in the said notification, and the Local Government shall take such objections into consideration.

(3) When the said period has expired and the Local Government have considered the objections (if any) which have been submitted under sub-section (2), and if the Bengal Legislative Council has by a resolution recommended the extension, with or without modifications, the Local Government may issue the notification including such area or any portion thereof within the limits of Calcutta, to be administered by the Corporation under this Act, and such notification

(Part X.—Chapter XXXVIII.—Supplemental provisions.—Sections 544, 545.)

shall thereafter be of full force and effect, and Schedule I to this Act shall be deemed to be amended accordingly.

Effect of, inclu-
sion.

544. (1) When the said area is included within the limits of Calcutta, under section 543, then—

(a) the Bengal Municipal Act, 1884¹, or the Bengal Local Self-Government Act of 1885¹ or the Bengal Village Self-Government Act, 1919, as the case may be, if in force in such area, shall be deemed to be repealed therein; and

(b) except as the Local Government may otherwise, by notification in the *Calcutta Gazette* direct, all rules, by-laws, regulations, orders, directions and powers made, issued or conferred under this Act and in force at the date of inclusion shall apply to the said area, in supersession of all corresponding rules, by-laws, regulations, orders, directions and powers (if any) made, issued or conferred under the Bengal Municipal Act, 1884, the Bengal Local Self-Government Act of 1885, or the Bengal Village Self-Government Act, 1919, as the case may be.

(2) The Local Government may issue such orders as may be necessary to give effect to the inclusion of the said area and any matters incidental or ancillary thereto.

- Police.

Co-operation of
the police.

545. (1) The Commissioner of Police and his subordinates shall—

(a) co-operate with the Corporation for carrying into effect and enforcing the provisions of this Act and for maintaining good order in Calcutta, and,

(b) on the order of a Magistrate, assist the Corporation or any municipal officer or servant in carrying out any order made by a Magistrate under this Act.

(2) It shall be the duty of every police-officer in Calcutta—

(i) to communicate without delay to the proper municipal officer any information which he receives of a design to commit or of the commission of any offence against this Act or against any rule or by-law made thereunder, and

of 1923.]

(Part X.—Chapter XXXVIII.—Supplemental provisions—Sections 546, 547.)

- (ii) to assist any municipal officer or servant reasonably demanding his aid for the lawful exercise of any power vesting in the Corporation or in such municipal officer or servant under this Act or under any such rule or by-law.

(3) On the recommendation of the Corporation any officer or servant of the Corporation, when empowered in that behalf by a general or special order of the Commissioner of Police, may exercise the powers of a police-officer for such of the purposes of this Act as may be specified in such order.

546. (1) It shall be the duty of every police-officer to arrest any person who commits, in his view, any offence against this Act or against any rule or by-law made thereunder, if the name and address of such person be unknown to him, and if such person, on demand, declines to give his name and address or gives a name or address which such officer has reason to believe to be false.

Power to police
to arrest offenders

(2) No person so arrested shall be detained in custody after his true name and address are ascertained or, without the order of a Magistrate, for any longer time (not exceeding at the most twenty-four hours from the arrest) than is necessary for bringing him before a Magistrate.

(3) On the written application of the Executive Officer, the Deputy Executive Officer, the Chief Engineer, the City Architect or the Health Officer, any police-officer above the rank of constable shall arrest any person who obstructs any municipal officer or servant in the exercise of any of the powers conferred by this Act or by any rule or by-law made thereunder.

*Special provisions as to land and buildings in
Hastings*

547. Notwithstanding anything contained in this Act, all land and buildings belonging to the Government in that part of Hastings which is included in Calcutta shall be subject to the control of the General Officer Commanding the Presidency District:

Control by
General Officer
Commanding the
Presidency Dis-
trict over Govern-
ment land and
buildings.

Provided that this section shall in no way derogate from the powers vested in the Corporation under Chapters XVII and XVIII and any other provision of this Act enabling them in the interests of the public

(Part X.—Chapter XXXVIII.—Supplemental provisions.—Sections 548—551.)

health to require the owner or occupier of any land or building in such part of Hastings to remedy or abate any sanitary defect on or in such land or building.

Sanction of Government of India required to erection of masonry building.

548. The Corporation shall not give or be deemed to have given permission to erect a masonry building in that part of Hastings which is included in Calcutta unless and until the sanction of the Government of India has been obtained; and such sanction shall not be applied for unless the plan of the building and the site-plan of the land are approved by the Commissioner of Police.

Demolition or alteration of buildings erected without such sanction.

549. (1) If the erection of any masonry new building in that part of Hastings which is included in Calcutta is, after the commencement of this Act, commenced, carried on or completed without obtaining the sanction of the Government of India, the Executive Officer shall, if requested by the General Officer Commanding the Presidency District to do so,—

(a) by written notice direct the owner to demolish or alter the building, or

(b) himself cause the building to be demolished or altered at the expense of the owner.

(2) No person shall be entitled to any compensation on account of such demolition or alteration.

Provisions of sections 548 and 549 not to bar other provisions of the Act.

550. Notwithstanding anything contained in sections 548 and 549, permission to erect a masonry building in that part of Hastings which is included in Calcutta shall not be given so as to contravene, by rendering less strict, any of the provisions of this Act regulating the construction of buildings; and the provisions of section 549 shall be in addition to, and not in derogation of, any other powers of the Corporation under this Act to take proceedings for the demolition of any masonry new building erected in such part of Hastings after the commencement of this Act.

Water-supply, sewers and gas mains.

Preparation and maintenance of map in regard to water-supply system.

551. (1) The Corporation shall prepare and maintain a map showing the position of water mains and other particulars of the water-supply system generally, sewers, gas mains, telephone and electric cables and such other details as may be prescribed by the Local Government by rules under this Act.

of 1923.]

(Part X—Chapter XXXVIII—Supplemental provisions—Sections 552—555)

(2) Such map shall be open for inspection by the public, and copies thereof shall be supplied by the Corporation to the public, at such cost as may from time to time be fixed by the Corporation.

(3) Every public company which lays down underground mains and cables shall contribute towards the cost of preparation and maintenance of the said map, such proportionate amount as may be prescribed by the Local Government by rules under this Act.

General provisions

552. Where a power is expressed as being conferred on any authority to require a person to do a number of things, that authority may from time to time in its discretion require that person to do any one or more of those things.

Power to authority to require any one or more of a number of things to be done

553. Whenever any right is conferred or duty imposed by or under this Act, or by any rule or by-law made thereunder, on the owner or occupier of any premises, and, in consequence of there being gradations of owners or occupiers, doubt arises as to who is the owner or occupier entitled to exercise such right or bound to perform such duty, the Corporation may, after due inquiry, determine from time to time which of such owners or occupiers shall be deemed to be so entitled or bound.

Who to be deemed owner or occupier, where there are gradations of owners or occupiers.

Provided that if the name of any one of such owners or occupiers has been entered in the assessment-book in pursuance of any decision given by the Executive Officer under section 111, sub-section (2), such owner or occupier shall be deemed to be so entitled or bound until his name is duly removed from the said assessment-book.

554. Every Councillor and Alderman, every municipal officer and servant, every contractor or agent for the collection of any municipal rate or other tax or fee and every servant or other person employed by any such contractor or agent, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code¹.

Councillors, Aldermen, municipal officers etc. to be deemed public servants

555. No person shall obstruct or molest any person (not being a person referred to in section 554) with whom the Mayor has entered into a contract on behalf of the Corporation, in the performance or execution by such person of his duty or of anything

Prohibition of obstruction of municipal contractors.

(Part X.—Chapter XXXVIII.—Supplemental provisions—Sections 556—558.)

which he is empowered or required to do by virtue, or in consequence of, this Act or any rule or by-law made thereunder.

Prohibition of removal of mark.

556. No person shall remove any mark set up for the purpose of indicating any level, measurement or direction necessary to the execution of works authorized by this Act or by any rule or by-law made thereunder.

Construction of references and savings.

Construction of references in other enactments.

557. (1) In every enactment in force at the commencement of this Act, unless a different intention appears,—

- (a) all references to the Chairman of the Corporation of Calcutta shall be construed as references to the Executive Officer,
- (b) all references to the Vice-Chairman of the said Corporation shall be construed as references to the Deputy Executive Officer,
- (c) all references to the Commissioners of the said Corporation shall be construed as references to the Councillors and Aldermen referred to in section 5, and
- (d) all references to, or to any chapter or section of the Calcutta Municipal Act, 1899, shall, so far as is possible, be construed as references to this Act or to its corresponding chapter or section.

(2) The references to the General Committee in section 56, sub-section (1) and section 65, sub-sections (1), (2) and (3) of the Calcutta Improvement Act, 1911, shall be construed as references to the Corporation.

Saving of prior enactments.

558. Except as in this Act otherwise expressly provided, nothing in this Act shall be deemed to affect the provisions of any other enactment.

of 1923.]

(Schedule I—Calcutta)

SCHEDULE I

"CALCUTTA"

[See section 3, clause (11), and sections 183 and 184.]

"Calcutta" is the area included within the following boundaries except that it does not include—

- (1) Fort William,¹
- (2) the Esplanade, or
- (3) that part of Hastings² north of the south edge of Clyde Row and Strand Road to the river bank.

Boundaries

A line drawn along the outer edge of Paramanik Ghat Road, Cossipur Road, Kisi Nath Dutt Road, Kali Charan Ghose Road and Ramkrishna Ghoso Lane, thence southward along the western edge of the Eastern Bengal Railway to the point where the boundary line meets the New Canal, thence eastward along the southern bank of the New Canal to the point where it meets the Baliaghatta Canal, thence westward along the southern bank of the Baliaghatta Canal to the point where it meets Pagladanga Road, thence along the northern and eastern edge of Pagladanga Road to the point where it meets Chingrighatta Road, thence along the southern edge of Chingrighatta Road to the point where it meets Tangra Road, South, thence along the eastern and southern edge of Tangra Road, South, to the point where it meets Topsia Road, North, thence along the eastern and southern edge of Topsia Road, North, to the point where it meets Hughes Road, thence along the eastern edge of Hughes Road to the point where the Town and Suburban High Level Sowers meet, thence along the southern edge of the new road to the point where it meets Topsia Road, South, thence along the southern edge of Topsia Road, South, to the point where it meets Tiljala Masjidbari Lane, thence along the eastern and southern edge of Tiljala Masjidbari Lane to Tiljala Road, formerly known as Muilvi Ahmad Khan Bihadur's Road, thence westward along a line drawn in

¹ As to the Government of Fort William, see the Fort William Act, 1881 (XIII of 1881) Bengal Code Vol I

² As to land and buildings in Hastings, see ss. 517 to 520, ante

(Schedule I.--Calcutta.)

continuation of the southern edge of Tiljala Masjid-bari Lane to the Eastern Bengal Railway line; thence southward along the western edge of the line of that Railway, and westward along the northern edge of the Budge-Budge Branch of that Railway, to Russa Road, South; thence southward along the eastern edge of Russa Road, South, to the point where it meets Tollyganj Circular Road; thence along the southern boundary of Tollyganj Circular Road to the point where it meets the southern boundary of the Port Commissioners' land acquired for the purpose of constructing King George's Dock and its connected works, and thence along the southern boundary of the Port Commissioners' land above referred to, as it stands at the commencement of this Act up to the point where it meets Diamond Harbour Road; thence along the eastern boundary of Diamond Harbour Road, to the point where it meets the southern boundary of the Port Commissioners' land above referred to; thence along the southern and western boundary of the said land up to the point where it meets the village Singarhatty; thence along the northern border of villages Belpukuria, Ramdashutty, Makalhutty and Kismat Dum Dum till it meets the Government embankment; and thence westward along the Government embankment till it meets the River Hooghly; thence along the River Hooghly to the western terminus of the outer edge of the Paramanik Ghat Road.

of 1923.]

(Schedule II—Corrupt practices)

SCHEDULE II

CORRUPT PRACTICES.

[See sections 3 (17), 22 (3), 46 and 47]

The following shall be deemed to be corrupt practices for the purposes of this Act.—

PART I.

1. A gift, offer or promise by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, of any gratification to any person whomsoever, with the object, directly or indirectly, of inducing—

Bribery

- (a) a person to stand or not to stand as, or to withdraw from being, a candidate, or
- (b) an elector to vote or refrain from voting at an election,

or as a reward to—

- (a) a person for having so stood or not stood or for having withdrawn his candidature, or
- (b) an elector for having voted or refrained from voting

Explanation—For
tion is not restricted
estimable in money, and
of employment for reward, but it does not include the payment of any
expenses *bona fide* incurred at or for the purpose of any election and
duly entered in the return of election expenses prescribed by this Act

2. (1) Any direct or indirect interference or attempt to interfere on the part of a candidate or his agent, or of any other person with the connivance of the candidate or his agent, by any of the means hereafter specified, with the right of any person to stand or not to stand or to withdraw from standing as a candidate, or with the free exercise of the franchise of an elector

Undue influence

(2) The means above alluded to are—

- (a) any violence, injury, restraint, or fraud and any threat thereof,

(Schedule II,—Corrupt practices.)

- (b) any threat to a person or inducement to a person to believe that he or any person in whom he is interested will become or be rendered an object of divine displeasure or spiritual censure ;

but do not include any declaration of public policy or promise of public action.

Personation.

3. The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or by a person who has voted once at an election for a voting paper in his own name at the same election.

Publication of
false statements.

4. The publication by a candidate or his agent, or by any other person with the connivance of the candidate or his agent, of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidate, which statement is reasonably calculated to prejudice such candidate's election.

PART II.

Acts under
Part I.

1. Any act specified in Part I, when done by a person who is not a candidate or his agent or a person acting with the connivance of a candidate or his agent.

Personation.

2. The application by a person at an election for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or for a voting paper in his own name after he has already voted at such election.

Receipt
of gratification.

3. The receipt of, or agreement to receive, any gratification, whether as a motive or a reward,—

(a) by a person to stand or not to stand as, or to withdraw from being, a candidate ; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or for inducing or attempting to induce any elector to vote or refrain from voting or any candidate to withdraw his candidature.

of 1923.]

(Schedule II—Corrupt practices)

4. Any payment or promise of payment to any person on account of the conveyance of any elector to or from any place for the purpose of recording his vote

Payment for
conveyance

Provided that nothing contained in these rules shall prevent a conveyance being hired by an elector, or by several electors at their joint cost, for the purpose of conveying him or them to or from the poll

5. The incurring or authorization of expenses by any person other than a candidate or his election agent on account of holding any public meeting or upon any advertisement, circular or publication or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, unless he is authorized in writing so to do by the candidate

Incurring ex-
pense without
authority

6. The hiring, using or letting, as a committee-room or for the purpose of any meeting to which electors are admitted, of any building room or other place where intoxicating liquor is sold to the public

Hiring of liquor
shops

7. The issuing of any circular, placard or poster having reference to the election which does not bear on its face the name and address of the printer and publisher thereof

Issue of circu-
lars, etc., without
printer's and pub-
lisher's name
printed thereon

(Schedule III.—List of Constituencies.)

SCHEDULE III.

LIST OF CONSTITUENCIES.

(See sections 8, 20, 23, 45, 49, 50 and 51.)

[NOTE.—This schedule will come into force at the fourth of the general elections held under, or in the manner provided in, this Act.]

Name of constituency.	Extent of constituency.	Number of Councillors to be elected.	Number of seats included in column 3 reserved for Muhammadans.
1	2	3	4

A.—General Constituencies.

Shampukur	...	Ward No. 1	...	Two.	
Kumartuli	...	Ward No. 2	...	One.	
Bartola	...	Ward No. 3	...	Two.	
Sukeas Street	...	Ward No. 4	...	Two.	
Jorabagan	...	Ward No. 5	...	Two.	
Jorasanko	...	Ward No. 6	...	Two.	
Bara Bazar	...	Ward No. 7	...	Three.	
Collootola	...	Ward No. 8	...	Four	Two.
Muchipara	...	Ward No. 9	...	Three	One.
Bow Bazar	...	Ward No. 10	...	Two	One.
Puddapukur	...	Ward No. 11	...	One.	
Waterloo Street	...	Ward No. 12	...	One.	
Fenwick Bazar	...	Ward No. 13	...	One.	
Taltola	...	Ward No. 14	...	Two	One.
Kalinga	...	Ward No. 15	...	One.	
Park Street	...	Ward No. 16	...	One.	
Bamun Bustee	...	Ward No. 17	...	One.	
Tangra	...	Ward No. 18	...	One.	

of 1923.]

(Schedule III.—List of constituencies.)

Name of constituency.	Extent of constituency	Number of Councillors to be elected	Number of seats included in column 3 reserved for Muhammadans.
1	2	3	4

A.—General Constituencies—council

Entally ...	Ward No. 19 ..	Two ...	One
Beniapukur ...	Ward No. 20 ...	Two ..	One
Ballyganj ...	Ward No. 21	Two ..	One
Bhowanipur ..	Ward No. 22	Three	
Alipur ...	Ward No. 23 .	One	
Ekbalpur ..	Ward No. 24 ...	Two ...	One.
Watganj and Hastings	Ward No. 25 ..	Two ...	One
Garden Reach ..	Ward No. 26 ...	Four ...	Two
Tollyganj ..	Ward No. 27 ...	One	
Behaghatta	Ward No. 28 ...	Three ...	One.
Manktala ...	Ward No. 29 ...	Two ...	One.
Belgachia ...	Ward No. 30 ..	Two	
Satpukur ...	Ward No. 31 ...	Two	
Cossipur ...	Ward No. 32 ...	Three ...	One

B.—Special Constituencies

Bengal Chamber of Commerce.	Non-territorial ...	Six.	.
Calcutta Trades Association.	Non-territorial ...	Four.	.
Calcutta Port Commissioners.	Non-territorial ...	Two.	.

(Schedule IV.—List of constituencies.)

SCHEDULE IV.

LIST OF CONSTITUENCIES.

(See sections 8, 20, 23, 45, 49, 50 and 51.)

[This Schedule will remain in force in respect of all elections held prior to the fourth of the general elections held under, or in the manner provided in, this Act.]

Name of constituency.	Extent of constituency.	Number of Councillors to be elected.
1	2	3

A.—Non-Muhammadan Constituencies.

Shampukur	...	...	Ward No. 1	...	Two.
Kumartuli	...	...	Ward No. 2	...	Two.
Bartola	...	...	Ward No. 3	...	Two.
Sukeda Street	...	...	Ward No. 4	...	Two.
Jorabagan	...	...	Ward No. 5	...	Two.
Jorasanko	...	...	Ward No. 6	...	Two.
Bara Bazar	...	...	Ward No. 7	...	Three.
Collootola	...	...	Ward No. 8	...	Two.
Muchipara	...	...	Ward No. 9	...	Two.
Bowbazar	...	...	Ward No. 10	...	One.
Puddapukur	...	...	Ward No. 11	...	One.
Waterloo Street	...	...	Ward No. 12	...	One.
Fenwick Bazar	...	...	Ward No. 13	...	One.
Taltola	...	...	Ward No. 14	...	One.
Kalinga	...	...	Ward No. 15	...	One.
Park Street	...	...	Ward No. 16	...	One.
Bamun Bustee	...	...	Ward No. 17	...	One.
Tangra	...	...	Ward No. 18	...	One.
Entally	...	...	Ward No. 19	...	One.
Beniapukur	...	...	Ward No. 20	...	One.

of 1923.]

(Schedule IV—List of constituencies)

Name of constituency	Extent of constituency	Number of Councillors to be elected
1	2	3

A—Non-Muhammadan Constituencies—continued

Ballygunj	Ward No 21	One
Blonvanipur	Ward No 22	Three
Alipir	Ward No 23	One
Ekbulpur	Ward No 24	One
Watganj and Hastings	Ward No 25	One
Garden Reach	Ward No 26	Two
Tollyganj	Ward No 27	One
Baliohata	Ward No 28	Two
Mariatala	Ward No 29	One
Belgachua	Ward No 30	Two
Satpukur	Ward No 31	One
Cossapur	Ward No 32	Two

B—Muhammadan Constituencies

Muhammadan constituency		
No I—		
Blampukur	Ward No 1	} One
Kumartuli	Ward No 2	
Bartola	Ward No 3	
Sukces Street	Ward No 4	
Jorabagan	Ward No 5	
Jorasanko	Ward No 6	
Bara Bazar	Ward No 7	
Muhammadan constituency		
No II—		
Colootola	Ward No 8	} Four
Muchlipara	Ward No 9	
Bowbazar	Ward No 10	
Luddajukur	Ward No 11	
Waterloo Street	Ward No 12	

(Schedule IV.—List of constituencies).

Name of constituency.	Extent of constituency.	Number of Councillors to be elected.
1	2	3

B.—Muhammadan Constituencies—concl'd.

Muhammadan constituency				
No. III—				
Fenwick Bazar	...	Ward No. 13	...	} Two.
Taltola	...	Ward No. 14	...	
Kalinga	...	Ward No. 15	...	
Park Street	...	Ward No. 16	...	
Banun Bustee	...	Ward No. 17	...	
Tangra	...	Ward No. 18	...	
Entally	...	Ward No. 19	...	
Beniapukur	...	Ward No. 20	...	
Muhammadan constituency				
No. IV—				
Ballyganj	...	Ward No. 21	...	} Three
Bhowanipur	...	Ward No. 22	...	
Alipur	...	Ward No. 23	...	
Ekbalpur	...	Ward No. 24	...	
Watganj and Hastings	...	Ward No. 25	...	
Tellyganj	...	Ward No. 27	...	
Muhammadan coconstituency				
No. V—				
Beliaghata	...	Ward No. 28	...	} Two.
Maniktala	...	Ward No. 29	...	
Muhammadan constituency				
No. VI—				
Belgachia	...	Ward No. 30	...	} One.
Satpukur	...	Ward No. 31	...	
Cossipur	...	Ward No. 32	...	
Muhammadan constituency				
No. VII—				
Garden Reach	...	Ward No. 26	...	Two.

C.—Special Constituencies.

Bengal Chamber of Commerce	...	Non-territorial	...	Six.
Calcutta Trades Association	...	Non-territorial	...	Four.
Calcutta Port Commissioners	...	Non-territorial	...	Two.

or 1923.]

(Schedule V—Return of election expenses)

SCHEDULE V.

(See section 34)

RETURN OF ELECTION EXPENSES

1. Under the head of receipts there shall be shown the name and description of every person (including the candidate), club, society or association from whom any money, security or equivalent of money was received in respect of expenses incurred on account of, or in connection with, or incidental to, the election, and the amount received from each person, club, society or association separately

2. Under the head of expenditure, there shall be shown —

- (a) the personal expenditure of the candidate incurred or paid by him or his election agent, including travelling and all other personal expenses incurred in connection with his candidature,
- (b) the name, and the rate and total amount of the pay, of each person employed as an agent (including the election agent), clerk or messenger,
- (c) the travelling expenses and any other expenses incurred by the candidate or his election agent on account of agents (including the election agent), clerks or messengers,
- (d) the travelling expenses of persons, acting on behalf of the candidate, whether in receipt of salary or not, incurred in connection with the candidature, and whether paid or incurred by the candidate, his election agent or the person so travelling,
- (e) the cost whether paid or incurred of—
 - (i) printing,
 - (ii) advertising,
 - (iii) stationery,
 - (iv) postage,
 - (v) telegrams,
 - (vi) rooms hired either for public meetings or as committee-rooms, and
 - (vii) conveyances hired for taking electors to the polls,

NOTE.—(1) All expenses incurred in connection with the candidature, whether paid by the candidate, his election agent, or any other person, or remaining unpaid on the date of the return are to be set out.

(3) All sums paid but for which no receipt is attached are to be set out in detail with dates of payment.

Affidavit.

(Sd.)

Solemnly affirmed before me.

(Magistrate.)

of 1923.]

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1.)

SCHEDULE VI.

RULES AS TO LICENSES FOR THE EXERCISE OR CARRYING ON OF PROFESSIONS, TRADES AND CALLINGS.

(See sections 20, 175, 176, 177 and 211.)

1. Every license shall be granted under one or other of the classes mentioned in the second column of the following table, and there shall be paid annually for the same the fee mentioned in that behalf in the third column of that table:—

1	2	3
Serial No.	Classes.	Fees
	CLASS I.	
1	Company or association or body of individuals, the paid up capital of which is equivalent to twenty lakhs of rupees or upwards, which exercises or carries on any profession, trade or calling whatsoever.	Five hundred rupees.
	CLASS II	
2	Company or association or body of individuals, the paid-up capital of which is equivalent to ten lakhs of rupees or upwards, which exercises or carries on any profession, trade or calling whatsoever but is not included in Class I	Two hundred and fifty rupees.
	CLASS III.	
3	Merchant, banker, wholesale trader, commission agent, engineer, architect, builder, contractor, auctioneer or carrier, the rent of whose place of business is valued under Chapter X at Rs. 1,000 per mensem or upwards.	Two hundred rupees
4	Taxi cab owner, having twenty or more taxi-cabs.	Ditto

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1.)

1	2	3
Serial No.	Classes.	Fees.
	CLASS IV.	
5	Company or association or body of individuals, the paid-up capital of which is equivalent to one lakh of rupees or upwards, which exercises or carries on any profession, trade or calling whatsoever, but is not included in Class I or Class II.	One hundred rupees.
6	Merchant, banker, wholesale trader, commission agent, engineer, architect, builder, contractor, auctioneer or carrier, who is not included in Class III and the rent of whose place of business is valued under Chapter X at Rs. 350 <i>per mensem</i> or upwards.	Ditto
7	Owner or occupier of a cotton, jute, hide or other screw-house or press-house, the rent of whose place of business is valued under Chapter X at Rs. 350 <i>per mensem</i> or upwards.	Ditto.
8	Owner or occupier of a market, bazar or theatre or a place of public entertainment kept up for the purpose of profit, the rent of whose place of business is valued under Chapter X at Rs. 350 <i>per mensem</i> or upwards.	Ditto.
9	Printer, publisher, lithographer, engraver, die-sinker, photographer or phototyper, Ditto	Ditto.
10	Proprietor of a newspaper, periodical or journal, Ditto	Ditto.
11	Hotel-keeper, boarding-house-keeper, lodging-house-keeper, manufacturer, retail trader or shop-keeper, Ditto	Ditto.
12	Bookmaker or turf accountant.	Ditto.
13	Keeper of a shop for the sale of any liquor or intoxicating drug.	Ditto.
14	Taxi-cab owner, having ten or more, but less than twenty taxi-cabs.	Ditto.
15	Stevedores.	Ditto.

of 1923.]

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1.)

1	2	3
Serial No.	CLASS.	Fees.
	CLASS V	
16	Company or association or body of individuals the paid-up capital of which is less than one lakh of rupees, which exercises or carries on any profession, trade or calling whatsoever	Fifty rupees
17	Consulting and practising physician, practising surgeon, licentiate of medicine or surgery, <i>labiraj</i> , graduate of the Bengal Veterinary College, midwife, dentist, barrister, attorney, <i>vakil</i> of the High Court, proctor, notary public, public accountant, average adjuster, statistical reporter, analyst, <i>shroff</i> or <i>banian</i> , in respect of whose income income tax is payable	Ditto
18	Merchant, banker, wholesale trader, commission agent, engineer, architect, builder, contractor, auctioneer or carrier, who is not included in Class III or Class IV	Ditto
19	Broker or <i>dalal</i> employed in the wholesale transfer or purchase of imports or exports, country produce, silk or other merchandise	Ditto
20	Commercial traveller	Ditto
21	Dealer in precious stones.	Ditto
22	Broker or dealer in houses, landed property, Government securities, shares or bills of exchange	Ditto
23	Freight broker.	Ditto Ditto
24	Owner or occupier of a market, bazar or fair, or a place of public entertainment kept up for the purpose of profit, who is not included in Class IV.	Ditto
25	Owner or occupier of a wholesale tobacco, jute or other depot, whose place of business is valued under Chapter V at Rs. 100 per mensem or upwards.	Ditto

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1.)

1	2	3
Serial No.	Classes.	Fees.
	CLASS V—concl'd.	
26	Proprietor of a newspaper, periodical or journal, who is not included in Class IV and the rent of whose place of business is valued under Chapter X at Rs. 100 <i>per mensem</i> or upwards.	Fifty rupees.
27	Printer, publisher, lithographer, engraver, die-sinker, photographer or phototyper, Ditto ...	Ditto.
28	Owner or occupier of a cotton, jute, hide or other screw-house or press-house, Ditto ...	Ditto.
29	Hotel-keeper, boarding-house-keeper, lodging-house-keeper, manufacturer, retail trader or shop-keeper, Ditto ...	Ditto.
30	Order-supplier or house decorator, the rent of whose place of business is valued under Chapter X at Rs. 100 <i>per mensem</i> or upwards.	Ditto.
31	Taxi-cab owner, having five or more, but less than ten taxi-cabs.	Ditto.
32	Owner of a steam ferry-boat or steam cargo-boat.	Ditto.
33	Pawnbroker or money-lender.	Ditto.
34	Plumber, electric fitter or gas-fitter, the rent of whose place of business is valued under Chapter X at Rs. 100 <i>per mensem</i> or upwards.	Ditto.
35	Pleader, ... in respect of whose income income-tax is payable.	Ditto.

of 1923.]

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1.)

1	2	3
Serial No	Classes	Fees.
	CLASS VI.	
36	Consulting and practising physician, practising surgeon, licentiate of medicine or surgery, <i>lobiroj</i> , graduate of the Bengal Veterinary College, midwife, dentist, barrister, attorney, <i>vakil</i> of the High Court, proctor, notary public, public accountant, average adjuster, statistical reporter, analyst, <i>shroff</i> or <i>banian</i> , by whom no income-tax is payable	Twenty hundred rupees
37	Insurance agent, broker or canvasser	Ditto
38	Purchaser of goods in Calcutta for transport and sale beyond the limits of Calcutta.	Ditto.
39	Broker in precious stones	Ditto
40	Surveyor (including a licensed building surveyor) or professional measurer	Ditto.
41	Practising apothecary, or practising veterinary surgeon	Ditto
42	Keeper of a billiard room	Ditto.
43	Owner or occupier of a whole sale tobacco, jute or other depôt, who is not included in Class V, and the rent of whose place of business is valued under Chapter X at Rs 30 per mensem or upwards.	Ditto
44	Pleader, by whom no income-tax is payable.	Ditto
45	Printer, publisher, lithographer, engraver, die maker, photographer or phototypist, who is not included in Class IV or Class V, and the rent of whose place of business is valued under Chapter X at Rs 30 per mensem or upwards	Ditto.

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1.)

1	2	3
Serial No.	Classes.	Fees.
CLASS VI— <i>contd.</i>		
46	Dyer or cleaner, the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per mensem</i> or upwards.	Twenty-five rupees.
47	Owner or occupier of a cotton, jute, hide or other screw-house or press-house, who is not included in Class IV or Class V, and the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per mensem</i> or upwards.	Ditto.
48	Hotel-keeper, boarding-house-keeper, lodging-house-keeper, manufacturer, retail trader or shop-keeper, who is not included in Class IV or Class V, and the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per mensem</i> or upwards.	Ditto.
49	Order supplier or house decorator, who is not included in Class V, and the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per mensem</i> or upwards.	Ditto.
50	Keeper of baths, ... the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per mensem</i> or upwards.	Ditto.
51	Taxi-cab owner, having less than five taxi-cabs.	Ditto.
52	Plumber, electric-fitter or gas-fitter, who is not included in Class V, and the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per mensem</i> or upwards.	Ditto.
53	Carriage-dealer or horse-dealer, the rent of whose place of business is valued under Chapter X at Rs. 30 <i>per mensem</i> or upwards.	Ditto.

of 1923.]

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1.)

1	2	3
Serial No.	Classes	Fees.
CLASS VI— <i>continued</i>		
54	Proprietor of a periodical or journal, who is not included in Class IV or Class V, and the rent of whose place of business is valued under Chapter X at Rs 30 <i>per mensem</i> or upwards	Twenty-five rupees.
55	Private detective	Ditto
56	Professional astrologer.	Ditto
57	<i>Poddar</i> or money-changer, ... the rent of whose place of business is valued under Chapter X at Rs 15 <i>per mensem</i> or upwards,	Ditto.
58	Professional jockey or race horse trainer	Ditto
CLASS VII		
59	Broker or <i>dawal</i> , ... who is not included in Class V	Twelve rupees.
60	<i>Mukhtear</i>	Ditto.
61	Professional draftsman.	Ditto.
62	Professional artist, sculptor, actor, singer or musician.	Ditto
63	Fortune-teller.	Ditto.
64	Keeper of a permanent stall in a daily market, who is not included in any higher class.	Ditto.
65	Keeper of a shop within fifty yards of a daily market who is a seller of goods similar in kind to other goods sold in such market, Ditto ...	Ditto
66	<i>Poddar</i> or money-changer, ... the rent of whose place of business is not less than Rs. 5, but not more than Rs. 15.	Ditto.

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1.)

1	2	3
Serial No.	Classes.	Fees.
CLASS VII—contd.		
67	Medical practitioner (whether registered under the Bengal Medical Act, 1914, ¹ or otherwise), practising apothecary, <i>hakim</i> , <i>kabiraj</i> , graduate of the Bengal Veterinary College, or midwife.	who ¹ is not included in Class VI and by whom no income-tax is payable.
		Twelve rupees.
68	Proprietor of a periodical or journal,	who is not included in Class IV, Class V or Class VI, and the rent of whose place of business is valued under Chapter X at Rs. 10 <i>per mensem</i> or upwards.
		Ditto.
69	Owner of a cargo-boat.	Ditto.
70	Professional horse-breaker.	Ditto.
71	Labour-supplier, licensed shipping broker, boat-supplier or custom-house agent.	Ditto.
72	Printer, publisher, lithographer, engraver, die-sinker, photographer or phototyper,	who is not included in Class IV, Class V or Class VI, and the rent of whose place of business is valued under Chapter X at Rs. 15 <i>per mensem</i> or upwards.
		Ditto.
73	Dyer or cleaner,	who is not included in Class VI, and the rent of whose place of business is valued under Chapter X at Rs. 15 <i>per mensem</i> or upwards.
		Ditto.
74	Hotel-keeper, boarding-house-keeper, lodging-house-keeper, manufacturer, retail trader or shop-keeper,	who is not included in Class IV, Class V or Class VI, and the rent of whose place of business is valued under Chapter X at Rs. 15 <i>per mensem</i> or upwards.
		Ditto.

Ben. Act
of 1911.

¹ Bengal Code, Vol. III.

of 1923.]

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rule 1)

1	2	3
Serial No.	Classes	Fees
CLASS VII.— <i>conold</i>		
75	Order supplier or house decorator, who is not included in Class V or Class VI, and the rent of whose place of business is valued under Chapter X at Rs. 15 per mensem or upwards.	Twelve rupees
76	Plumber, electric-fitter or gas-fitter, who is not included in Class V or Class VI, and the rent of whose place of business is valued under Chapter X at Rs. 15 per mensem or upwards.	Ditto
77	Carriage-dealer or horse dealer, who is not included in Class VI and the rent of whose place of business is valued under Chapter X at Rs. 15 per mensem or upwards.	Ditto.
78	Owner of any carriage, passenger-boat or palanquin which is let out for hire, the rent of whose place of business is valued under Chapter X at Rs. 15 per mensem or upwards.	Ditto
79	Band-supplier or stamp-vendor, Ditto	Ditto.
CLASS VIII.		
80	Keeper of a shop or other place of business, who is not included in any other class.	Four rupees.
81	Pedlar, vendor of goods in carts, hawkers or box callahs, who is not included in Class IX.	Ditto.
82	Professional petitioner, letter or bill-writer.	Ditto.
CLASS IX.		
83	Itinerant dealer hawking goods for sale in a basket or tray.	One rupee.

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rules 2—5.)

Licenses to be either personal or local.

2. (1) Licenses shall be either personal or local.

(2) "Personal license" means a license which is not a local license, and includes a license granted to a company or association or body of individuals.

(3) "Local license" means—

(a) a license the classification of which depends on the valuation of the place of business, and

(b) a license granted under Class IV, number 13, or Class V, number 32, or number 33, or Class VI, number 42, or number 43, or class VII, number 64, or number 69, or class VIII, number 80, in the table in rule 1.

Personal license required for each separate profession, trade or calling.

3. When any person carries on two or more professions, trades or callings which are separate or independent of one another and for each of which a personal license is required, he shall be liable to take out a personal license for each such profession, trade or calling:

Provided that, if, in the opinion of the Executive Officer, any such profession, trade or calling is auxiliary to the carrying on of one or more of such other professions, trades or callings, such person shall only be required to take out a license under the highest of the two or more classes in the table in rule 1 under which his liability accrues.

Personal license of members of firms.

4. When two or more persons carry on business jointly, they may take out a single license as a firm:

Provided that, if any of the partners of such firm exercises or carries on any separate profession, trade or calling on his own account or jointly with other partners, a separate license shall be taken out in respect of every such profession, trade or calling.

Local license required for each business.

5. A separate local license shall be taken out in respect of the business carried on in each separate place of business:

Provided that—

(a) separate licenses shall not be required in respect of any business carried on in adjacent premises which form one place of business or in any yards, godowns or factories which are auxiliary to any place of business; and

of 1923.]

(Schedule VI—Rules as to licenses for the exercise or carrying on of professions, trades and callings—Rules 6—10)

(b) the amount of the valuation of such premises, yards, godowns or factories shall be included in the computation for determining the class under which the license shall be taken out

6. When a place of business occupies only a portion of one set of premises and has not been separately valued under Chapter X, the valuation thereof for the purposes of these rules shall be the rate *per mensem* at which such place of business might, in the opinion of the Executive Officer, reasonably be expected to let

Valuation of places of business not separately valued under Chapter X

7. When any person exercises or carries on a profession, trade or calling for which a personal license should under these rules be taken out, and is also the owner or occupier of a place of business for which a local license should be taken out, he shall, if the Corporation so direct, take out both a personal license and a local license

When both personal and local license required

Provided that, where the place of business is auxiliary to the exercise or carrying on of the profession, trade or calling, only one license shall be required, and such license shall be either personal or local as the Corporation may direct

8. Where the owner or occupier of any place of business is required to take out a license, the license shall be taken out by the occupier if the business is carried on by the occupier, but otherwise by the owner

Occupier ordinarily to be licensee

9. (1) As soon as may be after the first day of April in every year, the Executive Officer shall prepare a list of persons licensed

Annual list of licensees.

(2) Such list shall be kept in section 198, sub-section (1), and shall be kept at the municipal office and be open to public inspection at all reasonable times

10. Any person who has taken out a license for the next preceding year, or has been fined under section 192 for not taking out a license during that year, shall, subject to the other provisions of these rules, be presumed, unless he proves to the contrary, to be liable and entitled to take out a license for the current year under the class in which he was included for such preceding year.

Continuance of liability in same class

(Schedule VI.—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rules 11—13.)

Time for presentation of applications for remissions, etc.

11. (1) Any person who claims a remission or refund of a license fee under proviso (a) to section 175, in respect of any year, shall present an application to the Corporation before the first day of September in the next following year.

(2) Any person who—

- (i) has taken out a license for the next preceding year or has been fined under section 492 for not taking out a license during that year, and,
- (ii) in consequence of any change in his profession, trade, calling or place of business, or for any other reason, claims an exemption or declaration under proviso (b) or proviso (c) to section 175,

shall present an application to the Corporation before the first day of September in the current year.

Power to Executive Officer to issue notices to take out licenses, etc.

12. (1) If the Executive Officer considers—

- (a) that any person who has not taken out a license in the next preceding year ought to take out a license, or
- (b) that any person who has taken out a license for such year but has not done so for the current year, ought to take out a license under a higher class, or to take out more than one license,

he may serve such person with a notice directing him to take out a license or licenses for the next preceding year or the current year, as the case may be, under such class or classes as may to the Executive Officer seem proper.

(2) If the Executive Officer considers that any person who has taken out a license for the current year ought to have taken out a license under a higher class, he may serve such person with a notice directing him forthwith to take out a license under such higher class for that year:

Provided that when such license under a higher class has been taken out, the amount paid in respect of the license in the lower class shall, unless such person is liable to take out both licenses, be refunded to him.

Executive Officer to prove liability when service of notice not proved.

13. When any person is summoned for not taking out a license, and service of notice under rule 12, sub-rule (1), is not proved, it shall be incumbent on the Executive Officer to prove that the person so

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Schedule VI—Rules as to licenses for the exercise or carrying on of professions, trades and callings.—Rules 14—17.

summoned is liable to take out a license, and to state the class under which he is so liable

14. Any person dissatisfied with an order made under this schedule may appeal either —

Appeal to Bench or to Court of Small Causes

(a) to a Bench consisting of not less than three Councillors or Aldermen to be elected by the Corporation ; or

(b) to a Court of Small Causes having jurisdiction in the place in which the profession, trade or calling is alleged to be exercised or carried on

Provided that no appeal shall lie under this rule unless the amount payable for the license, as assessed in accordance with the said notice, has been deposited with the Corporation

Provided also that where an assessee has taken out a license for the next preceding year, the sum to be deposited under the first proviso to this rule shall not exceed the amount which he paid in such year

15. Any person who is desirous of appealing under rule 14 shall, within thirty days of the passing of the order or the service of the notice, referred to in that rule, submit to the Secretary to the Corporation a petition setting forth the grounds of appeal,

Statement by appellant

and the petitioner shall intimate whether he intends to appeal to the Bench under clause (a), or to a Court of Small Causes under clause (b), of rule 14

Provided that no appeal shall be made to a Court of Small Causes under rule 14 until the expiration of a period of one month from the submission of a petition under this rule.

16. When an appeal is made under these rules to a Court of Small Causes, the Court may follow the procedure prescribed in section 528, and the order of the said Court shall be final.

Procedure of Court in appeal

17. When no appeal is preferred under these rules, the order of the Corporation or the Executive Officer, as the case may be, shall be final.

Finality of order of Corporation or Executive Officer when no appeal

(Schedule VII.—Wards for purposes of valuation.)

SCHEDULE VII.

WARDS FOR PURPOSES OF VALUATION.

(See section 131.)

Serial number of Ward.	Name of Ward.	BOUNDARIES OF WARD—			
		On the north.	On the south.	On the east.	On the west.
1	2	3	4	5	6
1	Shampukur ...	The Circular Canal	Ultadingi Road and Grey Street.	The Circular Canal and Upper Circular Road.	Upper Chitpur Road and the Chitpur Bridge Approach.
2	Kunartuli ...	The River Hooghly	Nimtala Ghat Street and the road leading to Nimtala Ghat.	Upper Chitpur Road and the Chitpur Bridge Approach.	The River Hooghly.
3	Bartola ...	Grey Street and Ultadingi Road.	Beadon Street and Maniktala Road.	The Circular Canal.	Upper Chitpur Road and Upper Circular Road.
4	Sukeas Street	Beadon Street and Maniktala Road.	Machua Bazar Street and Gas Street.	The Circular Canal and Upper Circular Road.	Cornwallis Street.
5	Jorabagan ...	Nimtala Ghat Street and the road leading to Nimtala Ghat.	Cotton Street and Mirbahar Ghat Street.	Upper Chitpur Road.	The River Hooghly.
6	Jorasanko ...	Beadon Street ...	Machua Bazar Street.	Cornwallis Street	Upper Chitpur Road.
7	Bara Bazar ...	Mirbahar Ghat Street and Cotton Street.	Lal Bazar Street, Dalhousie Square, North, Fairlie Place and a line drawn in continuation of Fairlie Place to the river bank.	Lower Chitpur Road.	The River Hooghly.
8	Collootola ...	Machua Bazar Street	Bow Bazar Street	College Street ...	Lower Chitpur Road.

of 1923.]

(Schedule VII.—Wards for purposes of valuation.)

Serial number of Ward	Name of Ward	BOUNDARIES OF WARD—			
		On the north	On the south	On the east	On the west
1	2	3	4	5	6
9	Muchupara .	Muchua Bazar Street and Gas Street	Bow Bazar Street and Bahaghatta Road including the new diver- sion	The Circular Canal	College Street.
10	Bow Bazar . .	Bow Bazar Street	Dharamtala Street	Wellington Street	Bentuck Street
11	Paddapukur .	Ditto ...	Ditto	Lower Circular Road	Wellington Street
12	Waterloo Street	Lal Bazar Street, Dalhousie Square, North, Fairlie Place and a line drawn in continua- tion of Fairlie Place to the river bank.	Esplanade East, Lawrence Road and Esplanade, West	Bentuck Street	The River Hooghly
13	Fenwick Bazar	Dharamtala Street	Kyd Street and Ripon Street.	Wellesley Street	Chowringhee Road and part of Free School Street
14	Taltala ...	Dharamtala Street	Ripon Street . .	Lower Circular Road	Wellesley Street
15	Kalina ...	Ripon Street ...	Theatre Road ...	Ditto ...	Wellesley Street and Wood Street.
16	Park Street ...	Kyd Street and Ripon Street	Ditto ...	Wood Street and Wellesley Street	Chowringhee Road.
17	Bamun Butee	Theatre Road ...	Lower Circular Road	Lower Circular Road	Ditto.

(Schedule VII.—Wards for purposes of valuation.)

Serial number of Ward.	Name of Ward.	BOUNDARIES OF WARD—			
		On the north.	On the south.	On the east.	On the west.
1	2	3	4	5	6
18	Tangra ...	Baliaghutta Canal and Pagladanga Road.	Tiljala Road and Topsia Road, South.	Pagladanga Road, Chingrihatta Road, Tangra Road, South, Topsia Road, North, Hughes Road, and the new road connecting Hughes Road and Topsia Road, South, where the Town and Suburban High Level Sewers meet.	Kakurgachi Chord and the Eastern Bengal Railway.
19	Entally ...	Baliaghutta Road, including the new diversion and the Circular and Baliaghutta Canals.	Beniapukur Road, Phulbagan Road, South Road and Christopher Road.	Kakurgachi Chord and the Eastern Bengal Railway.	Lower Circular Road.
20	Beniapukur ...	Beniapukur Road, Phulbagan Road, South Road and Christopher Road.	The Calcutta Improvement Trust new 100 ft. road running from Beckbagan Lane and Lower Circular Road corner and meeting the Park Circus, the new 100 ft. Calcutta Improvement Trust Road from the Park Circus meeting Darga Road, and in its continuation, the new 60 ft. Calcutta Improvement Trust Road to the Eastern Bengal Railway.	Ditto ...	Ditto.

of 1923.]

(Schedule VII.—Wards for purposes of valuation.)

Serial number of Ward	Name of Ward	BOUNDARIES OF WARD—			
		On the north.	On the south	On the east.	On the west
1	2	3	4	5	6
21	Ballygunj ...	Lower Circular Road, the Calcutta Improvement Trust new 100 ft road running from Bechbagan Lane and Lower Circular Road Corner and meeting the Park Circus, the new 100 ft Calcutta Improvement Trust Road from the Park Circus meeting Darga Road and, in its continuation, the new 60 ft Calcutta Improvement Trust Road from Darga Road to the Eastern Bengal Railway, thence along Tiljala Road to the point where it meets Sopana Road, South.	Hazra Road, Bundel Road and a line drawn straight from the Eastern Bengal Railway to the southern edge of Tiljala Masjidbari Lane, and the southern edge of Tiljala Masjidbari Lane	Topsia Road, South, Tiljala Masjidbari Lane and the Eastern Bengal Railway line	Lansdowne Road
22	Bhowanipur .	Lower Circular Road	Hazra Road, Nepal Bhatta charya Street to Tolly's Nullah	Lansdowne Road and Russa Road, South	Tolly's Nullah and Zeerut Approach
23	Alipur ...	Tolly's Nullah ...	Tollygunj Circular Road and the southern boundary of the land acquired by the Port Commissioners for the Dock extension as existing at the time of the commencement of the Act up to the point where it meets Diamond Harbour Road.	Tolly's Nullah ...	Diamond Harbour Road and Kulder pore Bridge Approach

(Schedule VII.—Wards for purposes of valuation.)

Serial number of Ward.	Name of Ward.	BOUNDARIES OF WARD—			
		On the north.	On the south.	On the east.	On the west.
1	2	3	4	5	6
24	Ekbalpur ...	Circular Garden Reach Road.	Shahapur Road, Goragacha Road and Taratala Road.	Diamond Harbour Road.	Hide Road.
25	Watganj and Hastings.	Clyde Road, Strand Road and a line drawn in continuation of the south side of Strand Road to the river and the River Hooghly.	Circular Garden Reach Road and the southern edge of the line of old Taratala Road.	St. George's Gate Road, the Kidderpore Bridge Approach and Hide Road.	The western edge of the line of old Taratala Road and a line in continuation thereof up to the River Hooghly.
26	Garden Reach	Shahapur Road, Goragacha Road, the southern edge of the line of old Taratala Road and the River Hooghly.	The southern border of the land acquired by the Port Commissioners for the Dock extension as existing at the time of the commencement of the Act; westward along the northern border of villages Daulatpur, Krishnapur, Gongoon, Belpookaria, Ramdashutty, Makalhutty and Kismat Dun Dum till it meets the Government embankment.	Diamond Harbour Road, the western edge of the line of old Taratala Road and a line drawn in continuation thereof up to the River Hooghly.	The western border of the land acquired by the Port Commissioners for the Dock extension as existing at the commencement of the Act up to the village Singerhutty; along the Government embankment till it meets the River Hooghly.

of 1923.]

(Schedule VII.—Wards for purposes of valuation.)

Serial num- ber of Ward	Name of Ward.	BOUNDARIES OF WARD—			
		On the north	On the south	On the east.	On the west.
1	2	3	4	5	6
27	Tollyganj ...	Bondel Road, Hazra Road, Nepal Bhat-tacharjee Street to Tolly's Nullah.	Tollyganj Cir- cular Road and the Eastern Bengal Rail- way, Budge Budge Branch	Russa Road, South, and the Eastern Bengal Railway line	Russa Road, South, and Tolly's Nullah
28	Baliaghatta ...	Narikeldanga Main Road.	Baliaghatta Canal	New Canal ..	Circular Canal.
29	Maniktala ...	New Canal ...	Narikeldanga Main Road.	New Canal ...	Ditto.
30	Bolgachia ...	Paikpara Road and Belgachia Road.	The Circular Canal and the New Canal	Eastern Bengal Railway	Barrackpore Trunk Road
31	Satpukur ...	Kali Charan Ghose Road and Ram Krishna Ghose Lane	Paikpara Road and Belgachia Road	Ditto ...	Ditto.
32	Cossipur ...	Pramanick Ghat Road, Cossipur and Kashinath Dutt Road	Circular Canal ...	Barrackpore Trunk Road	The River Hooghly.

(Schedule VIII.—Tax on carriages and animals.)

SCHEDULE VIII.

TAX ON CARRIAGES AND ANIMALS.

(See section 165.)

		Per half-year.		
		Rs. A. P.		
1	On every four-wheeled carriage propelled by mechanical power (other than electricity) not having less than four cylinders and in respect of which the product of the overall length of the carriage multiplied by the track exceeds 65 square feet	30	0	0
2	On every four-wheeled carriage propelled by mechanical power (other than electricity) not having less than four cylinders and in respect of which the product of the overall length of the carriage multiplied by the track exceeds 45 square feet, but does not exceed 65 square feet	24	0	0
3	On every four-wheeled carriage propelled by mechanical power (other than electricity) having less than four cylinders or in respect of which the product of the overall length of the carriage multiplied by the track does not exceed 45 square feet	18	0	0
4	On every four-wheeled carriage propelled by electricity and on every three-wheeled carriage propelled by electricity or other mechanical power	18	0	0
5	On every bicycle, tricycle, side-car, or similar vehicle propelled by mechanical power not included in class 1, class 2, class 3 or class 4	10	0	0
6	On every four-wheeled carriage drawn by two horses	12	0	0
7	Where any person owns more than one carriage included in class 6, then on every such carriage after the first	8	0	0
8	On every four-wheeled carriage drawn by one horse, pony or mule, or a pair of ponies or mules under 13 hands	6	0	0
9	On every two-wheeled carriage drawn by one or more animals	6	0	0
10	On every <i>jirikshaw</i>	2	0	0
11	On every horse (not being a race horse)	6	0	0
12	On every race horse	24	0	0
13	On every pony or mule of or over 13 hands	6	0	0
14	On every pony or mule under 13 hands	2	0	0

(Schedule IX.—Scavenging-tax.)

SCHEDULE IX.

SCAVENGING-TAX.

(See section 179.)

PART I.—PERSONS BY WHOM THE TAX IS LIABLE

Hackney carriage owner.	Swineherd
Carter	Shepherd
Milk seller	Goatherd
Horse dealer	Owner or occupier of a market
Donkey owner	

PART II.—RATES OF FEE FOR LICENSES

	Per half year
	Rs A P.
For every horse . . . . .	... 6 0 0
" " pony or mule of or over 13 hands	... 6 0 0
" " pony or mule under 13 hands	... 3 0 0
" " bull or buffalo used for drawing a cart	... 1 8 0
" " cow or buffalo kept by a milk-seller	... 6 12 0
" " donkey or swine	... 6 12 0
" " ten sheep or goats	... 3 0 0
For every twelve cubic feet of offensive matter and rubbish, or part thereof removed on an average daily from a market	... 50 0 0.

(Schedule X.—Form of notice of demand.)

SCHEDULE X.

FORM OF NOTICE OF DEMAND.

[See sections 190 (1) and 206 (1).]

To

A. B.

residing at

Take notice that the Corporation of Calcutta demand from you (*as owner or occupier) the sum of due from you on account of the consolidated rate (or tax, as the case may be) for (here describe the premises on account of which the rate is leviable or the carriage, animal, profession, trade or calling on account of which the tax is payable) for the quarter (or half-year, or year) commencing (or ending) on the day of ; and that if the said sum is not paid into the municipal office at or to an officer appointed to receive the same, or if sufficient cause for non-payment of the same is not shown to the satisfaction of the Chief Executive Officer within seven days from the service of this notice, a warrant of distress will be issued for the recovery of the same, with costs.

Dated this day of

(Signed.)

Executive Officer, Calcutta Corporation.

* In the case of a demand on the occupier of any premises under section 199, state that notice of demand has been served upon the owner and that the sum due remains unpaid.

of 1923.]

(Schedule XI.—Form of warrant of distress.)

SCHEDULE XI.

FORM OF WARRANT OF DISTRESS

[See sections 191 (1), 198 (1) and 210 (1)]

To (here insert the name of the officer charged with the execution of the warrant)

Whereas A. B., of , has not paid, or shown sufficient cause to my satisfaction for the non-payment of, the sum of due for the consolidated rate (or tax, as the case may be) for the quarter (or half-year or year) commencing (or ending) on the day of , although the said sum has been duly demanded in writing from the said A. B., and seven days have elapsed since the service of the notice of demand,

[or Whereas the proceeds of the sale of the movable property of A. B., of , distrained under a warrant dated , and sold under section 197, are not sufficient to cover the sum distrained for;

And whereas the sum of is still due from the said A. B. ;]

[And whereas the said sum has been increased under section 205 (or section 209, as the case may be), to ;]

This is to direct you to distrain the movable property of the said A. B. (or, as the case may be, any movable property found on the premises in respect of which the said rate is due) to the amount of the said sum of and such further sum as may be sufficient to defray the costs of recovering the said amount; and if within seven days next after such distress the said sum shall not be paid, together with such further sum as shall be sufficient to defray the said costs, to sell the said movable property; and having paid and deducted out of the proceeds of the sale the said sum of and the costs of recovering the same, to return the surplus (if any) and if the same be demanded within three years from the date of the sale, to the person whom you shall find in possession of the said movable property.

If sufficient distress cannot be found of the movable property of the said A. B. (or on the said premises, as the case may be), you are to certify the same to me together with this warrant.

Dated this day of
(Signed)

Executive Officer, Calcutta Corporation.

(Schedule XII.—Table of fees payable on warrants of distress.)

SCHEDULE XII

TABLE OF FEES PAYABLE ON WARRANTS OF DISTRESS.

[See section 191 (3).]

Sum distrained for.					Fee.
					Rs. A.
Under 5 rupees	...	...	...	...	0 4
Rupees 5 and under Rs. 10	..	..	..	..	0 8
„ 10	„	„ 15	...	...	0 12
„ 15	„	„ 20	...	...	1 0
„ 20	„	„ 25	...	...	1 4
„ 25	„	„ 30	...	...	1 8
„ 30	„	„ 35	..	..	1 12
„ 35	„	„ 40	...	...	2 0
„ 40	„	„ 45	...	...	2 4
„ 45	„	„ 50	...	...	2 8
„ 50	„	„ 60	...	...	3 0
„ 60	„	„ 80	...	...	3 12
„ 80	„	„ 100	...	...	4 8
Above 100 rupees	...	...	...	...	5 0.

The above fees are to include all expenses except when peons are kept in charge of property distrained in which case eight annas shall be paid daily for each peon so employed.

of 1923.]

(Schedule XIII.—Form of notice of sale.)

SCHEDULE XIII.

FORM OF NOTICE OF SALE

(See section 191.)

To

A. B.

residing at

Take notice that I have this day seized the movable property specified in the inventory set out below for the sum of due for the consolidated rate (or tax, as the case may be) for the quarter (or half-year or year) commencing (or ending) on the day of , and that, unless you pay into the municipal office at the amount due, together with the costs of recovery, within seven days from the date of this notice, the said property will be sold

Dated this day of

*(Signature of the Officer
executing the Warrant of Distress)*

Inventory

*(Here state particulars of the movable property
seized.)*

(Schedule XIV.—Rules as to private connections to premises and meters.—Rules 1-4.)

SCHEDULE XIV.

RULES AS TO PRIVATE CONNECTIONS TO PREMISES AND METERS.

(See sections 232, 240 and 488.)

Private connections to premises.

Separate service-pipes for separate premises.

1. (1) All premises connected with the filtered water-supply shall be provided with separate service-pipes from the municipal main.

(2) In any case in which a service-pipe from a main is used for supplying filtered water to two or more premises, the Corporation may, by written notice, require the owners of such premises to lay down separate service-pipes for separate premises; and the expense of so doing shall be borne by all such owners in such proportion as may be determined by the Corporation.

(3) The Corporation shall not delegate to any municipal officer their power to make a requisition by written notice under sub-rule (2).

Separate stop-cocks and underground hydrants or taps for supply of unfiltered water to private premises

2. (1) In premises connected with the municipal water-supply, separate stop-cocks shall be provided by the owner for controlling the supply of unfiltered water for the purposes mentioned in clause (i) and clause (ii), respectively, of sub-section (2) of section 221.

(2) When unfiltered water is supplied for any of the purposes mentioned in clause (ii) of sub-section (2) of section 221, it shall be so supplied as to be capable of being drawn only from hydrants or taps fixed below the surface of the ground.

Outer stop-cocks.

3. When any premises are about to be connected with the municipal mains, the Corporation may, by written notice, require the owner of the premises to fix a stop-cock in some position outside the premises which is accessible at all times from the nearest street.

Size of ferrules.

4. (1) Filtered or unfiltered water supplied under Chapter XVII to any premises shall be supplied according to the annual value of such premises, as determined under Chapter X, through

of 1923.]

*(Schedule XIV—Rules as to private connections
to premises and meters—Rule 5.)*

a ferrule of the size prescribed therefor in the following table —

Annual value of premises as determined under Chapter V			SIZE OF FERRULE	
			Filtered water	Unfiltered water
From	1 to	599 rupees (both inclusive)	$\frac{3}{4}$ inch	$\frac{1}{2}$ inch
"	600 to	1,199 " "	$\frac{1}{2}$ "	$\frac{1}{2}$ "
"	1,200 to	2,399 " "	$\frac{1}{2}$ "	$\frac{1}{2}$ "
"	2,400 to	3,599 " "	$\frac{1}{2}$ "	$\frac{1}{2}$ "
3,600 rupees or more			$\left\{ \begin{array}{l} \frac{1}{2} \\ \frac{1}{2} \\ \frac{1}{2} \\ \frac{1}{2} \end{array} \right.$ " " or 1 "	$\left\{ \begin{array}{l} \frac{1}{2} \\ \frac{1}{2} \\ \frac{1}{2} \\ \frac{1}{2} \end{array} \right.$ " " or 1 "

Provided as follows —

(a) the Local Government may, on the recommendation of the Corporation, substitute any other scale for the scale of ferrules prescribed in the said table;

(b) if any premises be so situated that the ferrule prescribed therefor in the said table or under proviso (a) is too small to pass, within a period of six hours, the daily supply of water to which the occupier of the premises is entitled under section 223, the Corporation shall permit the use of a larger ferrule for such premises.

(2) Where a ferrule used at the commencement of this Act for the supply of water to any premises is larger than that prescribed for such premises in sub-rule (1) or under proviso (a) to that sub-rule, as the case may be, the Corporation may, at the expense of the municipal fund and after giving one month's notice in writing to the owner of the premises, substitute for such ferrule one of the size so prescribed.

5. (1) The service-pipe for carrying water from the municipal mains into any premises, and the pipes, taps and works (other than ferrules) within such premises, shall be of such character, dimensions and materials as the Corporation may fix and approve, and shall be made and constructed at the expense of the person requiring the same.

Construction of service pipes, ferrules and works

(2) The said ferrules shall be of such character and material as the Corporation may fix and approve, and except as provided in rule 1, sub-rule (2), shall be affixed at the expense of the occupier of the premises.

(Schedule XIV.—Rules as to private connections to premises and meters.—Rules 6-8.)

(3) The said service-pipe, and all fittings thereon for carrying water from the municipal mains into any premises, and all ferrules, pipes, taps, works and fittings inside the premises, shall in all cases be executed subject to the inspection of the Corporation and to their satisfaction;

and the connection of premises with the municipal mains, and the laying of supply-pipes under any public street or thoroughfare, shall be executed in the presence of a municipal officer authorized in that behalf, and in no other way.

(4) Such service-pipe, fittings, ferrules, pipes, taps and works may be made by the servants and workmen of the Corporation upon such terms as may be agreed upon between the Corporation and the person requiring the water-supply, or subject to such charges as may be fixed by them;

and, when they are to be so made, the Corporation may require the cost thereof to be paid or deposited before the work is executed.

Power to Corporation to inspect premises.

6. The Corporation may inspect any premises supplied with water under Chapter XVII in order to examine all pipes, taps, works and fittings connected with the supply of water, and to ascertain whether there is any waste or misuse of such water.

Replacing or alteration of fittings for supplying water.

7. (1) If any pipes, taps, works or fittings connected with the supply of filtered or unfiltered water in any premises be found, on examination by the Corporation, to be defective, they may, by written notice, require the owner or occupier of the premises—

(a) to replace such fittings, or

(b) to make such alterations therein as may be specified in the notice :

Provided that where any ferrule is obstructed owing to silt or other matter being deposited therein, the Corporation shall themselves cleanse such ferrule and replace it in proper order.

(2) If any notice issued under sub-rule (1) is not complied with within forty-eight hours, the Corporation may forthwith carry out the work, and the cost thereof shall be payable by the person to whom the notice was issued.

Inspection of works, etc., by qualified officer before permitting connection with mains.

8. (1) Before a connection for the supply of water from the municipal mains to any premises is sanctioned by the Corporation, they shall cause all the works, pipes, taps and fittings within such premises to be inspected by a duly qualified officer.

of 1923.]

(Schedule XIV—Rules as to private connections
to premises and meters—Rules 9-11)

(2) Until the Corporation have certified that the said works pipes, taps and fittings have been executed and put up in a satisfactory manner, no connection with the municipal mains shall be made

Meters

9. (1) If the owner or occupier of any premises to the service-pipe of which a meter is attached desires to have the meter tested, he may send a written application to the Corporation, and such application shall be accompanied by a fee of five rupees Testing of meter

(2) Upon receipt of any such application and fee the Corporation shall forthwith cause such meter to be tested, at a time and place to be specified in a notice to be served upon such owner or occupier

(3) If such meter is found, upon being so tested, to register more than two *per cent* in excess of the correct quantity, the said fee shall be returned to the person who sent it

10. If a meter which has been tested under rule 9 does not register more than two *per cent*. in excess of the correct quantity, the amount payable under section 238 shall be calculated according to the quantity indicated by the meter, but if the meter registers more than two *per cent*. in excess of the correct quantity, the quantity indicated shall, for the purpose of calculating the amount payable under section 238, be reduced by double the percentage of the excess registered:— Payment by occupier in case of incorrectness of meter

Provided that—

- (a) if such excess is more than ten *per cent*., no charge shall be made under section 238; and
- (b) no reduction shall be allowed, in calculating the charge for excess under section 238, on account of the incorrectness of the meter, except on the amount payable for the quarter in which the application referred to in rule 9, sub-rule (1), is received.

11. When any meter attached to the service-pipe of any premises is out of order or under repair, the Corporation shall forthwith replace it by another meter. Replacement of meter

(Schedule XIV.—Rules as to private connections to premises and meters.—Rules 12-13.)

Prohibition of
fraud in respect of
meter,

12. No person shall fraudulently—

- (a) alter the index to any meter, or prevent any meter from duly registering the quantity of water supplied, or
- (b) abstract or use water before it has been registered by a meter set up for the purpose of measuring the same.

Prohibition of
injuring meter or
fittings.

13. No person shall wilfully or negligently injure or suffer to be injured any meter belonging to the Corporation, or any of the fittings of any such meter.

of 1923.]

*(Schedule XV—Rules as to drains, privies and
urinals—Rules 1-4.)*

SCHEDULE XV.

RULES AS TO DRAINS, PRIVIES AND URINALS.

[See sections 266, 273, 274, 277, 278, 282, 284, 285, 286,
287, 364 (6) and (7) and 488.]

Drains.

1. (1) Every person who intends to construct a house-drain, or to make any substantial additions to, or alterations in, a house-drain, shall send to the Corporation an application in such form (to be supplied free of charge) as may be prescribed by the Corporation, and shall state therein the name and address of the licensed plumber who will execute the work and the purposes for which the drain is to be used.

Plans of house-
drains to be sub-
mitted to Corpora-
tion

(2) Such application shall be accompanied by a plan, in triplicate unless the Corporation otherwise direct, drawn to a scale of eight feet to the inch (or such smaller scale as the Corporation may consider sufficient), and showing—

- (a) the premises to be drained and the boundaries thereof,
- (b) the position of all existing filtered water pipes within the premises,
- (c) the alignment, gradient and size of the proposed house-drain and its appurtenances,
- (d) any existing drains and their appurtenances, and
- (e) any other particulars which may be prescribed by the Corporation.

2. Every underground house-drain constructed after the commencement of this Act shall consist of good sound pipes made of glazed stoneware or other suitable material, and shall have water-tight joints made of Portland cement or any other cement approved by the Executive Officer.

Material and
joints.

3. Every such house-drain shall be of adequate size, with an internal diameter of not less than—

- (a) six inches between the master-trap and the sewer, and
- (b) four inches at all other places.

4. No such house-drain shall be so constructed as to form in any of such drains a right-angled junction, either vertical or horizontal, and every branch drain

etc. etc.

*(Schedule XV.—Rules as to drains, privies and
urinals.—Rules 5-8.)*

or tributary drain shall be joined to another drain obliquely, at an angle of not less than one hundred and thirty-five degrees, in the direction of the flow of such other drain.

How to be laid.

5. Every such house-drain shall be—

(a) laid upon a bed of good concrete of such width as may be approved by the Executive Officer, and not less than six inches thick,

(b) covered for half its depth with concrete not less than four inches thick, and

(c) so constructed as to have a proper fall.

Prohibition of
inlet within
building.

6. Every such house-drain shall be so constructed as to prevent any inlet to the drain (other than such inlet as may be required from the apparatus of a connected-privy or urinal or a slop-sink constructed or adapted to be used for receiving sewage) being made within the premises.

Traps.

7. (1) In every such house-drain a suitable trap shall be provided.

(2) Such trap shall be placed—

(a) within the premises, or,

(b) with the approval of the Corporation and on payment of such fees as may be prescribed by the Corporation, in the footpath or (if there is no footpath) in the roadway adjacent to the premises, and

(c) at a point as distant as may be practicable from the premises and as near as may be practicable to the point at which the drain is connected with a municipal sewer.

(3) Every inlet to any such house-drain (other than an inlet provided in pursuance of rule 8 as an opening for the ventilation of the drain) shall be properly trapped.

Ventilation.

8. The ventilation of every such house-drain shall be provided for as follows:—

(1) at least two untrapped openings shall be made—

(a) one opening shall be made at or near the level of the surface of the ground adjoining the opening, shall be as near as may be practicable to the trap prescribed by rule 7, sub-rule (1), shall be on that side of such trap which is nearer to the premises, and shall communicate with the drain by means of a suitable pipe, shaft or disconnecting chamber;

of 1923.]

*(Schedule XV.—Rules as to drains, privies and
urinals —Rule 8)*

(b) the second opening shall be made by carrying up, from a point in the drain as far distant as may be practicable from the point at which the opening mentioned in sub-clause (a) is situated a pipe or shaft fixed vertically to such height and in such manner as effectually to prevent any escape of foul air from such pipe or shaft into any premises in the vicinity thereof, and in no case to a less height than ten feet,

(2) in any case in which the Executive Officer considers it impracticable to enforce the provisions of sub-clause (a) and sub-clause (b) the two openings prescribed by clause (1) shall be made as follows —

(i) one opening shall be made by carrying up from a point as near as may be practicable to the trap prescribed by rule 7, sub-rule (1), a pipe or shaft fixed vertically to such height and in such manner as effectually to prevent any escape of foul air from such pipe or shaft into any premises in the vicinity thereof, and in no case to a less height than ten feet; and such opening shall be situated on that side of the said trap which is nearer to the premises,

(ii) the second opening shall be made at a point in the drain as far distant as may be practicable from the point at which the said pipe or shaft is carried up, shall be at or near the level of the surface of the ground adjoining the opening, and shall communicate with the drain by means of a suitable pipe or shaft,

(3) every opening provided under this rule shall be furnished with a suitable grating or other suitable cover for the purpose of preventing any obstruction to, or injury to, any pipe or drain by the introduction of any substance through the opening;

(4) such grating or cover shall be so constructed and fitted as to secure the free passage of air through it by means of a sufficient number of apertures, the aggregate extent of which shall be not less than the sectional area of the pipe or drain to which the grating or cover is fitted,

(5) every pipe or shaft referred to in this rule shall be of a sectional area not less than that of the

(Schedule XV.—Rules as to drains, privies and urinals.—Rules 9, 10.)

drain with which the pipe or shaft communicates and not less than the sectional area of a pipe or shaft of the diameter of four inches ;

(6) except with the written permission of the Corporation, no bend or angle shall be formed in any pipe or shaft referred to in this rule ;

(7) where the situation, height, sectional area and mode of construction of the soil-pipe of any connected-privy or connected-urinal, or the waste-pipe from any slop-sink situated within any premises, are such as are prescribed by this rule for a pipe or shaft for ventilating a drain, such soil-pipe shall, with the consent of the Executive Officer, be deemed to provide the opening which, under this rule, is required to be provided by means of a pipe or shaft.

Soil-pipe of
connected-privy
or urinal.

9. The soil-pipe of every connected-privy or connected-urinal constructed after the commencement of this Act or provided for a new building shall—

- (a) be at least four inches in diameter,
- (b) be fixed outside the privy or urinal, or outside the building in which the privy or urinal is situated, and be continued upwards without any diminution of its diameter,
- (c) be of such height and be so placed as to afford, by means of the open end of the pipe, a safe outlet for sewer air,
- (d) whenever practicable, be so constructed as to avoid any bend or angle, and
- (e) be so constructed as to have no trap between the pipe and the drains with which the privy or urinal communicates, and no trap (other than such trap as necessarily forms part of the apparatus of the privy or urinal) in any part of the pipe.

Ventilation of
soil-pipe of con-
nected privy or
urinal detached
from building.

10. Where any such connected-privy or connected-urinal has no internal communication with any building other than the privy or urinal, then,—

- (a) if the distance between the privy or urinal and the trap provided under rule 7, sub-rule (1), in the drain with which the privy or urinal communicates is not more than ten feet, no ventilation-pipe need be fixed in the soil-pipe ;

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(Schedule XV.—Rules as to drains, privies and
urinals.—Rules 11, 12)

- (b) if the said distance is more than ten feet but not more than thirty feet, a ventilation-pipe shall be fixed in the soil-pipe at a point as far distant as may be practicable from the trap provided under rule 7, sub-rule (1), and such pipe shall be placed vertically to such height and in such manner as effectually to prevent any escape of foul air from the pipe into any building in the vicinity thereof and in no case to a less height than ten feet and shall be of a sectional area not less than that of the drain with which it communicates, and not less than the sectional area of a pipe of the diameter of four inches,
- (c) if the said distance is more than thirty feet the soil-pipe shall be ventilated in the manner prescribed by rule 8

11. (1) The following pipes in any new building, namely —

Waste pipe

- (a) the waste-pipe from any bath-sink (not being a slop-sink constructed or adapted to be used for receiving sewage or lavatory,
- (b) the overflow-pipe from any cistern or from any sash under a bath or connected-privy or connected-urinal, and
- (c) every other pipe for carrying off waste water,

shall be taken through an external wall of the building, may, if the Executive Officer so directs, be provided with a suitable trap, and shall be so constructed as to discharge into the open air over a channel leading to a trapped gully-grating at least eighteen inches distant from that end of the pipe from which the water issues

(2) The waste-pipe in any such building from any slop-sink constructed or adapted to be used for receiving sewage shall be constructed so as to comply with such of the rules in this schedule as relate to the soil-pipe of a connected-privy or connected-urinal.

12. (1) Every open house drain constructed after the commencement of this Act, or provided for a new building, for the purpose of discharging surface or sullage water, shall be constructed of brick masonry or concrete covered with a plaster containing not less than twenty-five per cent. of Portland cement or

Open drains house

*(Schedule XV.—Rules as to drains, privies and
urinals.—Rules 13—16.)*

any other cement approved by the Executive Officer or of natural or artificial stone, or of glazed half-round pipes.

(2) Every such open house-drain shall be connected with a municipal sewer through trapped inlets in the manner prescribed under this Act or under any rule or by-law made thereunder for other house-drains.

Type-plans.

13. Type-plans for the construction of house-drains shall be prepared by the Corporation and kept open to the inspection of any applicant at the municipal office at all reasonable times without charge.

Maintenance of house-drains kept up for the benefit of certain premises only.

14. (1) Every house-drain which is situated in, alongside or under any street, and which has been or shall be constructed, whether at the charge of the municipal fund or not, for the sole use and benefit of, or which is continued for the sole use and benefit of, any premises adjoining or near to such street,

shall be maintained and from time to time repaired, flushed, cleansed and emptied by the owner or occupier of such premises as the Corporation may direct.

(2) The Corporation may, by written notice, require such owner or occupier, as the case may be—

(a) to repair, flush, cleanse or empty such house-drain, or

(b) to take such other order with such house-drain as the Corporation may deem necessary.

Maintenance of house-drains jointly used by two or more premises.

15. (1) Every house-drain whether constructed at the charge of the municipal fund or not which is jointly used for the drainage of two or more premises, shall be maintained and from time to time repaired, flushed, cleansed and emptied by the owners or occupiers of such premises as the Corporation may direct.

(2) The Corporation may, by written notice, require the said owners or occupiers, as the case may be, to carry out any work referred to in sub-rule (1), and the cost thereof, whether incurred by the said owners or occupiers or by the Corporation under section 510, sub-section (2), shall be paid by the said owners or occupiers in such proportion as the Corporation may think fit.

Power to Executive Officer to supervise and require alteration of work of laying underground drain.

16. (1) When any underground drain, which is not a municipal drain, is being laid, the Executive Officer may cause the work to be supervised and may from time to time, by written notice to the person carrying out the work, require the making of any reasonable

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(Schedule XV.—Rules as to drains, privies and urinals.—Rules 17–19.)

alteration or addition therein or thereto, or the abandonment of any part thereof, if such alteration, addition or abandonment appears to him to be necessary for ensuring the complete and satisfactory execution of the work.

(2) If any requisition under sub-rule (1) is not complied with, the Corporation may stop the work and dismantle anything which has been done in contravention of such requisition, and the expenses of so doing shall be paid by the person to whom the requisition was addressed.

17. Except with the written permission of the Corporation and in conformity with such conditions as may be prescribed by the Corporation either generally or specially, in this behalf, no drain shall be so constructed as to pass beneath any part of a building.

Restriction on construction of drain beneath building

18. The following provisions shall be observed when any drain is, with the permission of the Corporation granted under rule 17, constructed so as to pass beneath a building, namely—

Drains passing beneath a building

- (1) the drain-pipe shall be of iron or such other material as the Executive Officer may approve,
- (2) the drain shall be so laid as to leave, between the top of the drain at its highest point and the surface of the ground beneath the building, a distance of not less than the full diameter of the drain;
- (3) the drain shall be laid in a direct line throughout the whole distance beneath the building,
- (4) the drain shall be completely embedded in, and covered with, good and solid concrete at least six inches thick all round,
- (5) adequate means for ventilating the drain shall be provided (where necessary) at each end of such portion thereof as lies beneath the building.

Privies and urinals.

19. (1) Every person who intends to construct any privy or urinal or to make any substantial additions to, or alterations in, any privy or urinal, shall send to the Corporation an application in such form (to be supplied to the applicant free of charge) as may be prescribed by the Corporation.

Plans of privies and urinals to be submitted to Corporation

(Schedule XV.—Rules as to drains, privies and urinals.—Rules 20, 21.)

(2) Such application shall be accompanied by—

- (a) a site-plan, in triplicate unless the Corporation otherwise direct, drawn to a scale of not less than twenty feet to the inch and showing all surroundings to a distance of fifty feet from the privy or urinal, and
- (b) a detailed plan in triplicate of the privy or urinal with sections and cross-sections, drawn to a scale of four feet to the inch and showing—
 - (i) the means of ventilation,
 - (ii) (for connected-privies and connected-urinals only) the position and capacity of the reserve tank and flushing cistern,
 - (iii) (for connected-privies and connected-urinals only) the size and position of the anti-syphonage pipe, soil-pipe, ventilation-pipe, water-pipe, syphon-trap, and other appurtenances,
 - (iv) the ground-level and the floor-level,
 - (v) all pipes and other appurtenances in connection with the filtered water-supply, and
 - (vi) any other particulars which may be prescribed by the Corporation :

Provided that where any privy or urinal forms part of any building for which an application has been made under rule 52 of Schedule XVII, the particulars required under this rule may be attached to such application.

Power to Corporation to refuse to sanction service-privy or service-urinal which will be a nuisance.

20. The Corporation may, for reasons to be recorded by them in writing and furnished to the applicant free of charge, refuse to grant permission to erect any service-privy or service-urinal which will, in their opinion, be a nuisance.

Regulation of site of service-privies and service-urinals.

21. (1) No service-privy or service-urinal exceeding eleven feet in height shall be placed in the space required by this Act to be left at the back of a building.

(2) No service-privy or service-urinal situated in, or adjacent to, a building shall be placed at a distance of less than six feet from—

- (i) any public building, or

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*(Schedule XV.—Rules as to drains, privies and
urinals—Rules 22—24)*

(2) any building which is, or is likely to be, used as a dwelling-place, or a kitchen, or as a place in which any person is, or is intended to be, employed in any manufacture, trade or business.

(3) No service-privy or service-urinal shall be constructed in any premises occupied by a masonry building, or, without the special sanction of the Corporation, in any other premises which are situated in a street which has been sewered and has an adequate unfiltered water-supply

(4) Every service-privy and service-urinal shall be detached from the inhabited portion of any building.

22. (1) No service-privy or service-urinal shall be placed on any upper floor of a building

Power to Corporation to require substitution of connected privies for service privies and connected urinals for service urinals

Provided that, if in any case the Corporation considers it impracticable or inexpedient to provide a connected-privy or a connected-urinal, they may, by written notice, authorize the owner of the building to erect a service-privy or a service-urinal, as the case may be

(2) The Corporation may, by written notice, require the owner of any building to convert any service-privy into a connected-privy and any service-urinal into a connected-urinal.

23. (1) If there is no convenient access from a street to any service-privy or service-urinal, and if the Corporation consider it inexpedient to require that the privy or urinal be converted into a connected-privy or connected-urinal, as the case may be, they may, if they think fit, by written notice, require the owner of the privy or urinal to form a passage giving access thereto from a street

Power to Corporation to require owner to provide access to service-privy or service urinal from street

(2) Every notice served under sub-rule (1) shall require that such passage be formed at ground-level, be not less than four feet wide, and be provided with a suitable door, and shall inform the said owner that the passage may, at his option, be either open to the sky or covered in.

24. Models and type-plans of privies and urinals approved by the Corporation, with estimates of the cost of constructing privies and urinals in accordance therewith, shall be kept in the municipal office, and shall be open to inspection by any person at all reasonable times without charge; but no person shall be bound to construct any privy or urinal in accordance

Models and type-plans

*(Schedule XV.—Rules as to drains, privies and
urinals.—Rules 25—27.)*

with any such model or type-plan if such privy or urinal be constructed in accordance with the other rules contained in this schedule.

Drains.

25. (1) A drain shall be provided for every service-privy and every service-urinal.

(2) Such drain shall be constructed of some impervious material and shall connect the floor of the privy or urinal—

(a) with a drain communicating with a municipal sewer, or,

(b) if permitted by the Corporation, with an impervious cesspool the contents of which can be removed to a municipal sewer either by hand or by flow after filtration.

Floor.

26. (1) The floor of every privy and every urinal shall,—

(a) if the Executive Officer in any case so directs, be made of one of the following materials, to be selected by the owner of the privy or urinal, that is to say, glazed tiles, artificial stone or cement, or

(b) if no such direction is given, be made of thoroughly well-burnt earthen tiles or bricks plastered (and not merely pointed) with cement, and

(c) be in every part at a height of not less than six inches above the level of the surface of the ground adjoining the privy or urinal.

(2) The floor of every service-privy and every service-urinal shall have a fall or inclination of at least half an inch to the foot towards the drain prescribed by rule 25.

(3) The floor of every connected-privy and connected-urinal in which the opening of the pan is placed on the level of the floor shall have a fall or inclination towards the pan of at least half an inch to the foot

Walls and roof.

27. The walls and the roof (if any) of every privy and every urinal shall be made of such materials as may be approved by the Corporation :

Provided that—

(a) in the case of service-privies and service-urinals, the entire surface of the walls below the platform shall either be rendered in cement or be made as prescribed in clause (a) or clause (b) of sub-rule (1) of rule 26 ;

of 1923.]

*(Schedule XV—Rules as to drains, privies and
urinals—Rules 28—31.)*

- (b) in the case of connected-privies and connected-urinals the walls shall, up to a height of at least twelve inches above the platform, be made as prescribed in clause (a) or clause (b) of sub-rule (1) of rule 26

28. The platform of every privy and every urinal shall either be plastered with cement or be made of some water-tight non-absorbent material

Platform

29. Every privy and every urinal situated in, or adjacent to, a building shall have an opening, of not less than three square feet in area, in one of the walls of the privy or urinal, as near the top of the wall as may be practicable and communicating directly with the open air

Ventilation of
privies and urinals
in, or adjacent to
buildings

30. (1) Every service-privy and service-urinal shall be provided with a movable receptacle for sewage

Service-privies
and urinals to be
provided with a
movable recep-
tacle for sewage

(2) The following provisions shall have effect with regard to such privies, urinals and receptacles, namely—

- (a) the space beneath the platform of the privy or urinal shall be of such dimensions as to admit of a movable receptacle for sewage, of a capacity not exceeding two cubic feet, being placed and fitted beneath the platform in such manner and position as will effectually prevent the deposit, otherwise than in such receptacle, of any sewage falling or thrown through the aperture in the platform
- (b) the privy or urinal shall be so constructed as to afford adequate access to the said space for the purposes of cleansing it and of placing therein, and removing therefrom, a proper receptacle for sewage;
- (c) the said receptacle shall be water-tight, and shall be made of metal, well-tinned earthenware or glazed stoneware, and shall be of such construction and shape as the Executive Officer may consider suitable;
- (d) the door of the opening for the insertion and removal of the said receptacle shall be so made as completely to cover the said opening.

31. Every connected-privy and connected-urinal shall be sufficiently separated, to the satisfaction of the Executive Officer, from all kitchens, habitable rooms

Connected
privies and urinals
to be separated
from kitchens, etc.

*(Schedule XV.—Rules as to drains, privies and
urinals.—Rules 32—35.)*

and rooms in which any person is, or is intended to be, employed in any manufacture, trade or business.

Flushing of connected privies and of urinals.

32. (1) Every connected-privy shall be provided with a suitable water-cistern, so arranged as—

(a) to discharge direct into the pan of the privy not less than three gallons of water each time the cistern is used, and

(b) to prevent water being drawn from the cistern for any other purpose.

(2) All waste-pipes and overflow-pipes attached to such cisterns shall terminate in the open air and be cut off from all direct communication with any drain.

(3) Every urinal shall be provided with adequate flushing arrangements to the satisfaction of the Chief Engineer.

(4) For the purpose of supplying water to the flushing cistern of a connected-privy or connected-urinal a reserve tank of such capacity as may be prescribed by the Corporation shall be provided at a height sufficient to supply the cistern with water, and in case the reserve tank is situated at such a height that it cannot be supplied direct from the street main, the owner of the premises shall provide a suitable pump and shall make all necessary arrangements to ensure a satisfactory supply of water to the reserve tank :

Provided that where the height of the building containing such privy or urinal does not exceed the number of feet for which the pressure of unfiltered water is required by or under this Act for that street, the provisions of this sub-rule shall not be put into operation.

33. Every connected-privy and connected-urinal shall be provided with a pan of such form and dimensions as may be approved by the Chief Engineer.

34. Every connected-privy and connected-urinal shall be provided with an air-tight water-trap immediately below the pan.

35. (1) Every connected-privy and connected-urinal shall be provided with a syphon-trap which shall be proof against syphonage,

(2) In all cases where a connected-privy or connected-urinal is more than one storey high, an anti-syphonage pipe having an internal diameter of not less than two inches shall be provided, and such pipe shall be carried independently to a height of at least two feet above the roof of the privy or urinal or the roof of the building in which such privy or urinal is situated.

Pan for connected-privies and urinals.

Water-trap.

Syphon-trap and anti-syphonage pipe.

of 1923.]

*(Schedule XV.—Rules as to drains, privies and
urinals.—Rules 36—38.)*

36. No “container” or other similar fitting shall be placed under the pan of a connected-privy or connected-urinal; and no trap of the kind known as a “D trap” shall be used with any such privy or urinal.

Prohibition of
“containers and
“D traps”

37. (1) Every connected-privy and connected-urinal shall be provided with a soil-pipe for carrying sowage to a municipal sewer

Soil pipe for
connected privies
and connected-
urinals

(2) Such soil-pipe shall be provided with air-tight joints, and, if it be placed above ground, shall be made of metal approved by the Executive Officer

(3) Such soil-pipe shall, in addition to the trap prescribed by rule 34, be provided with a trap placed at some point between the privy or urinal and the sewer referred to in sub-rule (1).

(4) Such soil-pipe shall be ventilated by direct communication with the open air in the manner prescribed by the rules contained in this schedule; and, if the privy or urinal is situated in a building, the pipe shall be carried outside the building.

38. If any new building which is a privy or urinal is so constructed as to contravene any of the provisions of this schedule, the Corporation may (whether or not the offender be prosecuted under this Act), by written notice, require—

Enforcement of
the foregoing
rules in the case
of future privies
or urinals

(a) the occupier of the building to which the privy or urinal belongs, or

(b) (if the privy or urinal does not belong to a building) the owner of the land on which the privy or urinal stands,

to make such alterations as may be specified in the notice with the object of bringing the privy or urinal into conformity with the said provisions

(Schedule XVI.—Rules as to the regulation, maintenance, protection and repair of streets and public places.—Rules 1, 2.)

SCHEDULE XVI.

RULES AS TO THE REGULATION, MAINTENANCE, PROTECTION AND REPAIR OF STREETS AND PUBLIC PLACES.

(See sections 298, 364 (8) and (9) and 488.)

Regulation, maintenance and protection of streets and public places.

Cutting of
hedges and trees
and power to
Corporation to
cause same to
be cut.

1. (1) The Corporation shall cause any hedges belonging to them which border on any street or square to be trimmed or pruned to a height not exceeding seven feet, and shall cause any trees belonging to them which overhang any public street, so as to obstruct the same or cause damage thereto, to be cut and trimmed.

(2) The Corporation may, by written notice, require the owner or occupier of any land or building to trim or prune, to a height not exceeding seven feet, any hedges thereof bordering on any public street, or to cut and trim any tree appertaining to such land or building which overhangs any public street so as to obstruct the same or cause damage thereto.

(3) The Corporation, if for the public safety it appears to them necessary to do so, may cause any hedge or tree referred to in sub-rule (2) to be trimmed, pruned or cut without previously giving notice to the owner or occupier of the land or building as required by that sub-rule, and the Corporation may nevertheless require the expenses thereof to be paid by the said owner or occupier.

Regulation of
verandahs, etc.,
projecting over
streets.

2. (1) No verandah supported by pillars resting on a street shall be erected, either as a new structure or otherwise,—

(a) in any street specified by the Corporation in that behalf, or

(b) in any street the width of which is less than fifty feet and the footpath of which is not less than eight feet in width.

(2) No roof shall be placed on any verandah supported as aforesaid, and no roof exceeding three

of 1923.]

(Schedule XVI.—Rules as to the regulation, maintenance, protection and repair of streets and public places—Rule 3)

feet in width shall be placed on any verandah projecting over a street and not so supported.

(3) No person shall put up any verandah, balcony, sunshade, weather-frame or the like, to project over any street, without the written permission of the Corporation.

(4) Subject to the provisions of sub-rule (1) and sub-rule (2), the Corporation may, in their discretion, give written permission, on such conditions as they may think fit and on payment of such fees or rent as may be fixed from time to time by the Corporation, to owners or occupiers of buildings abutting on any street to put up verandahs, balconies, sunshades, weather-frames and the like, whether supported by pillars or not, to project from any building over such street.

(5) On the breach of any such condition, the Corporation may, by written notice, require the owner or occupier of the said building to comply with such condition.

(6) At any time after permission has been given under sub-rule (4) to put up a verandah, balcony, sunshade, weather-frame or the like, to project from a building, the Corporation may, by written notice, require the owner or occupier of the building to remove such projection, and the owner or occupier shall be entitled to reasonable compensation out of the municipal fund on account of such removal.

Provided that no fee shall be charged for any verandah, balcony, weather-frame or the like when the same is situated in or over any street not vested in the Corporation.

3. (1) No person shall erect or maintain a sky-sign without the written permission of the Corporation, which shall not be granted unless the sign is so constructed and maintained as not to be dangerous to the public or likely to fall into any street or public place.

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(2) Every written permission granted under sub-rule (1) shall continue in force for not more than one year from the date on which it was granted, and may be revoked at any time by the Corporation if they consider that the sky-sign for which it was granted has become dangerous to the public or is likely to fall into a street or public place.

(Schedule XVI.—Rules as to the regulation, maintenance, protection and repair of streets and public places.—Rules 4—6.)

Execution of works in public streets.

Guarding and lighting when public street opened or broken up and speedy completion of work.

4. (1) When any drain in, or the pavement or surface of, any public street is opened or broken up for the purpose of carrying on any work, or when any public street is under construction, the Corporation shall cause the place to be fenced and guarded and to be sufficiently lighted during the night and shall take proper precautions for guarding against accident, by shoring up and protecting adjoining buildings;

and shall, with all convenient speed, complete the said work, fill in the ground, and repair the said drain, pavement or surface, and carry away the rubbish occasioned thereby.

(2) No person shall, without lawful authority, remove any fence or shoring-timber, or remove or extinguish any light, set up under sub-rule (1).

Power to Corporation to prevent or restrict traffic in street during progress of work.

5. (1) When any work referred to in rule 4 is being executed in any public street, or when any other work which may lawfully be done is being executed in any street, the Corporation may direct that such street shall, during the progress of such work, be either wholly or partially closed to traffic generally or to traffic of any specified description.

(2) When any such direction has been given, the Corporation shall set up in a conspicuous position in or near the street an order prohibiting traffic to the extent so directed, and shall fix such bars, chains or posts across or in the street as they may think proper for preventing or restricting traffic therein.

(3) No person shall, without lawful authority, infringe any such order or remove any such bar, chain or post.

Naming of public streets and numbering of premises.

Posting of street names.

6. (1) The Corporation shall from time to time cause to be put up or painted, in a durable manner, on a conspicuous part of some building, wall or place, at or near each end, corner or entrance of every public street, such name as the Corporation may from time to time determine under section 295, sub-section (2), as the name by which such street is to be known.

(2) No person shall, without lawful authority, destroy, pull down, or deface any such name, or put up any name different from that put up by order of the Corporation.

of 1923.]

(Schedule XVI—Rules as to the regulation, maintenance, protection and repair of streets and public places.—Rules 7, 8.)

7. (1) The Corporation shall from time to time cause all premises in or near each public street to be numbered separately, and shall cause their respective numbers to be affixed in conspicuous places outside such premises at or near the entrances thereto

Numbering of premises.

(2) No person shall, without lawful authority, destroy, pull down or deface any such number, and no person shall affix to any such premises a private number of the same design as such number.

8. The Corporation shall keep a register of all alterations made by them in the names of streets and in the numbers of the houses therein and such register shall be kept in such a form as to show the date of every such alteration and the name of the street and the number of the premises previous to such alteration, as well as the new name of the street and the new number of the premises. It shall be lawful for any person to inspect such register and to take a copy of any portion thereof upon payment of such reasonable fee as the Corporation may from time to time determine.

Corporation to keep a register of premises

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 1, 2.)

SCHEDULE XVII.

RULES AS TO THE USE OF BUILDING-SITES AND THE EXECUTION OF BUILDING-WORK.

[See sections 319, 330, 331, 363, 364 (10), 488, 494 and 495.]

Part I.—Building-sites.

Conditions as to
use of building-
sites:

1. No piece of land shall be used as a site for the erection of a building,—

- (1) if the building is to abut on a street, unless the site is of such a shape that the face of the building can be made parallel to the line of the street, or as nearly parallel to the said line as the Corporation may consider practicable; and,
- (2) if the site is within thirty feet of a tank, unless the owner takes, or satisfies the Corporation that he will take, such order as will prevent any risk of the drainage of the building passing into the tank; and,
- (3) if the site is a filled-up tank, or has been filled up with, or used for depositing, rubbish, offensive matter or sewage, unless the Corporation have caused the site to be examined and granted a certificate to the effect that it is, from sanitary and engineering points of view, fit to be built upon; and,
- (4) if the building to be erected is a public building, a dwelling-house or a hut intended for human habitation, unless the site is certified by the Corporation to be dry and well-drained, or unless the Corporation are satisfied that it is capable of being well-drained and that the owner will take the necessary steps to drain it.

Certificate as to
correctness of
plans of a pre-
viously existing
building and fees
therefor.

2. (1) Any person who intends to erect any building upon a site on which a building has been previously erected, whether before or after the commencement of this Act, may, before commencing to erect his intended building, cause to be prepared plans showing the extent of the previously existing building in its several parts (or, in the event of such building having been taken down before the commencement of this Act, or having been accidentally destroyed, the best plans available under all the

of 1923.]

(Schedule XVIII—Rules as to the use of building-sites and the execution of building-work.—Rule 3.)

circumstances of the case), and may cause such plans to be submitted to the Corporation who shall (if reasonably satisfied with the evidence of their accuracy) certify the same; and such certificate shall for the purposes of these rules be taken to be conclusive evidence of the correctness of the plans.

(2) The Corporation, when granting a certificate under this rule, may charge such fees, not exceeding ten rupees for any one building, as they may think fit.

Part II.—Buildings generally.

3. (1) If a building is situated at the side of a street, no portion of the building, except open or balustraded parapets not more than four feet high, shall intersect any of a series of imaginary lines drawn across the street at an angle of forty-five degrees with the horizontal, such lines being drawn from the side of the street which is the more remote from the building in question, from a height of two feet above the centre of the street:

Height.

Provided as follows—

(i) where the said street is joined at an angle by another street facing the building, or where the street in which the building is situated terminates in front of the building, the height of that portion of the building which is opposite the street facing it measured from two feet above the centre of the street, shall in the former case, not exceed the height which would be permissible if the building abutted on or were situated on the side of a street equal in width to the width of the street on which it abuts or on the side of which it is situated *plus* half the width of the street facing it, and in the latter case, the height of the building shall not exceed the height which would be permissible if the building abutted on or were situated on the side of a street one-and-a-half times the width of the street terminating in front of it;

(ii) nothing herein contained shall affect the erection of a four-storeyed building abutting upon, or situated at the side of a street of not less than forty-five feet in width, if such building, including the parapet wall and the plinth, does not exceed fifty-six feet in height;

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 3.)

- (iii) nothing herein contained shall affect the erection of a building abutting upon, or situated at the side of, a street of not less than sixty feet in width, if such building does not exceed eighty feet in height; and
- (iv) no building exceeding eighty feet in height shall be erected without the special permission of the Corporation, who in granting such permission, may impose such conditions as they may think proper for the safety of the public and the safety and convenience of persons occupying the building.

Explanation.—If a building be placed at the edge of the street, its height, measured from two feet above the centre of the street, and excluding parapets as aforesaid, shall not exceed the average width of the street facing the site; but, if the building or one or more of its storeys be set back, the height of the building may be increased, subject to the condition that no portion of the building, after the height is increased, intersects any of the aforesaid lines.

(2) In the case of a new building erected on any portion of the site of the whole or part of a building in existence at the commencement of this Act, the angle at which the lines referred to in sub-rule (1) are to be drawn shall be fifty-six-and-a-half degrees instead of forty-five degrees:

Provided as follows—

- (i) the height allowed under this sub-rule shall in no case exceed thirty-six feet, and
- (ii) except with the special permission of the Corporation, nothing contained in this sub-rule shall authorize the erection of a new building so as to make any portion of it higher than any building which at the commencement of this Act was standing on the same portion of the site.

(3) Notwithstanding anything contained in sub-rule (1) or sub-rule (2), the Corporation may, by order published in the *Calcutta Gazette*, declare that, in any street or portion of a street, not less than twelve feet in width, which is specified in the order, the erection of two-storeyed buildings not exceeding twenty-eight feet in height excluding two feet for the plinth and excluding open or balustraded parapets not more than four feet high, will be permitted without complying with the requirements of those sub-rules.

(4) If a building is situated on a corner plot so as to abut upon more than one street, the narrower of

of 1923.]

(Schedule XVII—Rules as to the use of building-sites and the execution of building-work—Rule 4)

such streets shall, for the purpose of regulating the height of the building, be deemed to be of the same width as the wider street to a distance of fifty-five feet from such wider street

(5) Notwithstanding anything contained in sub-rules (1), (2) or (4),—

(a) a building of not more than one storey and not exceeding twelve feet in height (excluding two feet for the plinth) above the centre of the street, and

(b) if, in any street which is less than twelve feet in width, the owner of any building-site abutting on the street makes a free gift to the Corporation of all land comprised within such site, which falls within six feet of the centre line of such street, then a two-storeyed building not more than twenty-eight feet high,

may be erected without complying with the requirements of the said sub-rules

(6) For the purposes of clause (b) of sub-rule (5) of this rule and of clause (b) of sub-rule (4) of rule 30—

(a) the Corporation may prescribe a centre line for any street which is less than twelve feet in width and

(b) when such centre line has been prescribed, the side of the street shall, for the purposes of sub-rule (1), be deemed to be an imaginary line drawn six feet from such centre line

4. The floor or lowest floor of every new building erected from the ground-level shall be constructed at such level as will admit of—

Level of floor

(a) the construction of a drain sufficient for the effectual drainage of the building and placed at such level as will admit of the drainage being led into some municipal sewer at the time existing or projected, and

(b) the provision of the requisite communication with some sewer into which the drainage may lawfully be discharged at a point in the upper half of such sewer or with some other means of drainage into which the drainage may lawfully be discharged

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 5—8.)

Provision of fire-escapes, stair-cases and lift in certain buildings.

5. (1) All public buildings and all buildings of the warehouse class, and where the Corporation deem it necessary, all buildings of four or more storeys, shall be provided with adequate means of escape in case of fire, to the satisfaction of the Corporation, and shall also be provided with such number of stair-cases as the Corporation may require.

(2) The Corporation may, by written notice, require the owner of a new building, more than sixty feet in height or comprising four or more storeys, erected after the commencement of this Act, to provide a lift or some other similar mechanical contrivance for carrying persons from one floor to another.

Certain buildings not to be erected within six feet of a service-privy.

6. No new public building or new building which is, or is likely to be used as a dwelling-place or a kitchen or as a place in which any person is, or is intended to be, employed in any manufacture, trade or business shall be erected within six feet of any service-privy or service-urinal.

Prohibition of use of inflammable materials for roofs or external walls.

7. (1) External roofs or walls of buildings shall not, after the commencement of this Act, be made of grass, leaves, mats, canvas or other inflammable materials.

(2) The Corporation may, by written notice, require the owner of any building situated within a distance of thirty feet from any other building, and having at the commencement of this Act an external roof or wall made of any such inflammable material, to remove or alter such roof or wall.

(3) Sub-rules (1) and (2) shall not apply to bamboo shingle or wood or to any garden hut, orchid house, fernery or other similar structure within a compound, unless in any particular case the Corporation consider any such structure to be dangerous.

Part III.—Masonry buildings generally.

Foundation.

8. (1) Except with the sanction of the Corporation, the foundation of a masonry building shall rest on solid ground.

(2) Except with the sanction of the Corporation, the spread of the foundation shall be such that the pressure on the soil, taking into account the load on the floors and terrace-roof (if any) referred to in rules 15 and 17, shall not be greater than one ton on the square foot.

(3) The levels of the foundation shall be such as the Corporation may consider satisfactory.

of 1923.]

(Schedule XVII—Rules as to the use of building-sites and the execution of building-work—Rules 9—14.)

9. The plinth of a masonry building, except in the case of motor garages and coach-houses, shall be at least two feet above the level of the centre of the nearest street

Plinth

Provided that the plinth of stables and cow-sheds, may be one foot above such level

10. Every wall of a masonry building shall be constructed so as to rest upon proper footings having regular offsets and on each side of the wall a horizontal spread (equal on each such side) of not less than one-half the height of the footings provided that when an adjoining wall interferes the footings may, subject to the provisions of rule 8, sub-rule (2), be omitted, where that wall adjoins.

Footings for walls

11. The outer walls of a masonry building shall be constructed of brick or some similar hard and incombustible substance

Outer walls

12. All walls of a masonry building shall be properly bonded

Bonding of walls

13. (1) Every wall of a masonry building shall have a damp-proof course at the level of the ground floor.

Damp proof course

(2) Such damp-proof course may consist of sheet-lead, asphalt, slates laid in cement, vitrified bricks or any other durable material impervious to moisture.

14. If a masonry building exceeds one storey in height,—

Walls in building of more than one storey

(a) every wall shall be solidly put together with—

- (i) good cement, or
- (ii) good lime, or
- (iii) mortar compounded with good cement and sand or other suitable material, or
- (iv) mortar compounded with good lime and sand or other suitable material;

(b) the proportions of the materials forming such mortar shall be such as are approved by the Corporation;

(c) no part of any wall, other than a cornice or moulding, shall overhang any part of a wall underneath it; and

(d) every wall shall be of such thickness as the Corporation may consider necessary to ensure safety, regard being had to the height of the building, the materials of which it is constructed, and the purpose for which it is intended to use it.

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 15—20.)

Floors.

15. The floors of every masonry building shall be constructed to bear safely the maximum load to be carried, the allowance for live load not being less than fifty-six pounds on the square foot.

Beams and
girders.

16. (1) All beams and girders in a masonry building shall be supported by a breadth of brick-work, stone or other solid substance sufficient to secure their stability.

(2) The bearing of a beam or girder on a wall shall not, without the sanction of the Corporation, be less than three-fourths of the thickness of the wall.

Terrace-roofs.

17. Terrace-roofs shall be constructed to withstand such load, not less than forty pounds on the square foot, in addition to their own weight, as may be specified by an order of the Corporation.

Power to Cor-
poration to regu-
late height of
boundary wall.

18. Notwithstanding anything contained in this schedule, a boundary wall may be erected on the boundary of a site to any height which the Corporation may think fit and proper in the special circumstances of the case.

Notice to be
sent to Corpora-
tion before com-
mencing work.

19. Not less than three days before any person commences to erect a new building (other than a hut) the owner of the building shall send to the Corporation a written notice specifying the date on which it is proposed to commence the work.

Notice
completion
work.

after
of

20. Within one month after the completion of the erection of a new building (other than a hut)—

(a) the owner of the building shall send to the Corporation a written notice of the fact of such completion; and

(b) the licensed building surveyor or other person (if any), employed under rule 55 to supervise the erection of the said building, shall sign and send to the Corporation a true certificate in the following form:—

“BUILDING COMPLETION CERTIFICATE.

(See Schedule XVII, r. 20.)

I do hereby certify that the following building work (*here insert full particulars of the work*) has been supervised by me and has been completed to my satisfaction; that the workmanship and the whole of the materials used are good; and that no provision of the Calcutta Municipal Act, 1923, or of the rules and by-laws made thereunder, and no requisition made, condition prescribed or order issued under the said

of 1923.]

(Schedule XVII—Rules as to the use of building-sites and the execution of building-work—Rules 21—23)

Act, rules or by-laws has been transgressed in the course of the work."

21. The Corporation may,—

- (a) at any time during the erection of any new building (other than a hut), or
- (b) within one month after the receipt of the notice or the certificate sent under rule 20 with respect to any such building, or
- (c) if no such notice or certificate has been received, at any time after the building has been erected,

Inspection of
masonry buildings
by Corporation

inspect such building without giving previous notice of their intention to do so

22. (1) If, on making any inspection under rule 21, the Corporation find that the building inspected is being or has been erected—

Power to Cor-
poration to take
action after
making inspec-
tion

- (a) otherwise than in accordance with the plans thereof which they have approved, or
- (b) in such a way as to contravene any of the provisions of this Act or any rules or by-laws made thereunder,

they may, by written notice, require the owner of the building either—

- (i) to make such alterations as may be specified in the notice with the object of bringing the work into conformity with the said plans or provisions, or
- (ii) to appear before them and show cause why such alterations should not be made

(2) If such owner does not appear and show cause under clause (ii) of sub-rule (1), he shall be bound to make the alterations specified in such notice.

(3) If such owner appears and shows cause under clause (ii) of sub-rule (1), the Corporation shall, after hearing him, either—

- (a) cancel the notice issued under sub-rule (1), or
- (b) confirm the same, subject to such modifications (if any) as they may think fit.

Part IV—Dwelling-houses and other domestic buildings

23. The total area covered by all the buildings on any site used for a dwelling-house shall not exceed two thirds, or, in localities where the erection of only

Proportion of
area for dwelling
house which may
be built upon.

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 24, 25.)

detached buildings is allowed, one-third, of the total area of the site, and the area not so covered shall form part of the site :

Provided that the Corporation may at any time permit an excess area not exceeding five *per cent.* of the total area of the site to be covered in the case of a detached building, where they are satisfied, for special reasons to be recorded in writing, that the convenience or amenity of the building will be substantially increased, if such excess area is permitted to be covered.

Dwelling-houses and out-offices, where two-thirds of site are left vacant.

24. (1) If two-thirds of any building-site are left vacant—

(a) the dwelling-house may be placed in any part of the site, but not (subject to the provisions of section 303 or section 309, as the case may be) so as to extend beyond any building-line prescribed under section 302 or section 308 ; and

(b) servants' houses, stables and other out-offices within the area of the site shall not be of more than two storeys or exceed twenty-four feet in height or twenty feet in depth, and shall not be placed on more than two sides of the dwelling-house or within twenty-four feet of the dwelling-house.

(2) If two-thirds of a building-site are left vacant under sub-rule (1) no building or part of a building shall be erected so as to encroach upon the area so left vacant :

Provided that the Corporation may at any time permit an excess area not exceeding five *per cent.* of the total area of the site to be covered in the case of a detached building where they are satisfied, for special reasons to be recorded in writing, that the convenience or amenity of the building will be substantially increased, if such excess area is permitted to be covered.

Size and ventilation of inhabited rooms.

25. Every room in a domestic building which is intended to be used as an inhabited room—

(a) shall be in every part not less than ten feet in height, measured from the floor to the under-side of the beam on which the roof or ceiling rests ;

(b) shall have a clear superficial area of not less than eighty square feet

of 1923.]

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work—Rules 26—29)

(c) shall have, for purposes of ventilation,

- (i) windows opening directly into the external air, or into an open verandah, and having an opening of not less than one-fifteenth of the floor-area of the room, and
- (ii) an aggregate opening of not less than one-seventh of the floor-area of the room, to be provided by windows, or windows and doors, opening directly into the external air or into an open verandah, and
- (d) shall, if such room has a cubical area of three thousand cubic feet or less, be provided, for every six hundred cubic feet capacity or fraction thereof, with one or more ventilating openings aggregating not less than one-and-a-half square feet in area, near the ceiling and opening directly into the external air or into an open verandah

Provided that the Corporation may, in their discretion, relax the provisions of clause (a) and clause (d).

26. Every room in a domestic building which is intended to be used as an inhabited room, and which is constructed over a stable, cattle-shed or cow-house, shall be separated from the stable, cattle-shed or cow-house by a floor of concrete or other impermeable material.

Floor of inhabited room over stable, cattle-shed or cow-house

27. In every domestic building constructed or adapted to be occupied in flats or tenements, the principal common staircase shall be adequately lighted and ventilated upon every storey

Lighting and ventilation of staircases

28. The ground floor of every domestic building shall be covered throughout, at the height of the plinth, with some impermeable material approved by the Corporation, unless such floor be supported on beams and has a free air-space beneath it.

Ground floor

29. (1) The minimum superficial area of every court-yard of a dwelling-house shall be one-fourth of the aggregate floor-area of the rooms and verandahs on the ground floor abutting on the court-yard :

Court-yard of dwelling house

Provided that, in determining the said aggregate floor-area,—

- (i) only one-half of the floor-area of such rooms and verandahs as abut on another court-yard or on the open space prescribed under rule 30, or rule 32, and

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 30.)

- (ii) no portion of the floor-area of such rooms and verandahs as abut on a street not less than twelve feet in width,

shall be taken into account.

(2) Any room which is separated only by an open verandah from the court-yard shall, for the purpose of this rule, be deemed to abut on such court-yard.

(3) The minimum width of every such court-yard shall be eight feet.

(4) No portion of any face of a dwelling-house abutting on such court-yard shall intersect any of a series of imaginary lines drawn across the court-yard from the opposite face of the house, at the level of the plinth, at an angle of sixty-eight degrees with the horizontal :

Provided that nothing contained in this sub-rule shall prevent the construction of four-storeyed buildings on two sides of a court-yard where the length of the court-yard opposite such buildings is not less than twenty feet and the width of such court-yard is not less than fifteen feet.

(5) For the purposes of sub-rule (4), the opposite face of the house shall be deemed to be a vertical plane drawn through the most projecting portion of such face excluding any cornice or moulding not exceeding eighteen inches.

(6) Notwithstanding anything contained in sub-rule (4), a dwelling-house abutting on a court-yard of which the greater dimension does not exceed twice the less dimension, shall be held to comply with this rule if, by reason of its abutting on a court-yard of the same area but square in shape, the building would comply with this rule.

30. (1) There shall be, at the back of every domestic building, an open space extending along the entire width of the building and forming part of the site thereof.

(2) The said space shall be of such width that any of a series of imaginary lines drawn across such space at an angle of sixty-three-and-a-half degrees with the horizontal, from points on a level with the plinth of the building and situated on that side of the said space which is furthest from the building, shall not intersect any portion (other than open or

Open space in rear of building, regulating the rear height.

of 1923.]

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work—Rule 30.)

balustraded parapets not more than four feet in height) of the building

Provided as follows—

- (i) the minimum width of such space shall be ten feet ;
- (ii) in the case of three-storeyed buildings, the angle referred to in this rule shall be increased from sixty-three-and-a-half degrees to sixty-eight degrees, and
- (iii) in the case of any building in which there are both an outer and an inner court-yard, a minimum distance of six feet shall be permitted.

(3) If it is proposed to erect one or more buildings on the site of an existing building or if two or more buildings are proposed to be erected on any one site (whether or not such buildings are connected by means of verandahs or gangways or in any similar manner), the open space referred to in sub-rule (1) shall be provided at the back of each such building

(4) This rule shall not apply in the case of—

- (a) a building the back of which abuts on a public square or street or a place dedicated to public use and not likely to be built upon not less than sixteen feet in width ;
- (b) a building the back of which abuts on a public street less than sixteen feet in width, if the owner makes a free gift to the Corporation of all land comprised within the site of the building, which falls within eight feet of the centre line of such street as prescribed by the Corporation under rule 3, sub-rule (6), and
- (c) a building to which rule 21 applies

Provided that, in cases (a) and (b), the height of the building shall, in accordance with the provisions of rule 3, be regulated by the width of the public square or street on which it abuts.

(5) For the purposes of this rule, the back of a building shall be deemed to be that face of the building which is furthest from any street at the side of which the building is situated.

Provided that where a building is situated at the side of more than one street, the back of the building shall, unless the Corporation otherwise direct, be deemed to be that face of the building which is furthest from the widest of such streets.

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 31, 32.)

Relaxation of
rule 30 in certain
cases.

31. If any person desires to erect a domestic building upon a site which is irregular or of such a nature that it is impracticable to provide an open space in the rear of the building of the dimensions prescribed by rule 30, the Corporation may relax the provisions of that rule:—

Provided that—

(a) such open space shall be left as the Corporation may consider practicable, having regard to all the circumstances of the case; and

(b) not more than two-thirds of the total area of the site shall be occupied by buildings.

Open space at
sides of building.

32. (1) Except in the case of buildings to which rule 24 applies, if either side of a domestic building is not attached to the adjacent building, and if such side does not abut on a public square or street which is not less than six feet in width, or on a private street or partition passage which, in the opinion of the Corporation, is likely always to be kept open to the sky and which is not less than eight feet in width,

there shall be between the buildings an open space extending along the entire length of such side and forming part of the side of the said domestic building:

Provided that attachment of any building to the adjacent building shall not be allowed (except with the permission of the Corporation) in areas declared for the purpose if either of the buildings is a dwelling-house.

(2) The minimum distance across such space from every part of the said domestic building to the boundary line of the land or building immediately opposite such part shall be—

(a) six feet, if there is a building next to such boundary line or within two feet of it, or

(b) four feet, if there is an open space of two feet or more on the other side of such boundary line:

Provided that where there is a public street by the side of the site which is less than six feet wide, the owner may, by giving to the Corporation free of charge such land as will make the street six feet wide, be exempted from leaving further side space under this rule.

(3) Notwithstanding anything contained in this rule, where a site adjacent to the site of a proposed building is not occupied by a masonry building

of 1923.]

(Schedule XVII—Rules as to the use of building-sites and the execution of building-work—Rules 33, 34)

situated within ten feet of the boundary line between the two sites and within twenty-four feet from the frontage of the street on which the two sites abut, the proposed building may, with the sanction of the Corporation, be erected along the said boundary line up to a depth of twenty-four feet from such street frontage, unless, in the opinion of the Corporation, there is any objection to any building which may be subsequently erected on the adjacent site being attached to the building so erected.

33. (1) Every court-yard of a building, and every open space prescribed by rule 30 or rule 32, shall be raised at least one foot above the level of the centre of the nearest street, so as to admit of easy drainage into the street.

Court yards and
outward open
spaces to be raised
and kept open

(2) Every such court-yard and open space shall form part of the site of the building, shall be open to the sky throughout its entire area, and shall be kept accessible for the purpose of cleansing, and no structure shall be erected within or above, or so as to project over, the same.

Provided that—

(a) a one-seated or two-seated connected-privy or a privy with a bath-room attached thereto or two connected-privies, not exceeding forty square feet in floor-area in the aggregate, exclusive of walls, may be erected in the open space left under rule 30, sub-rule (2), and

(b) such privy or privies with attached bath-room may have as many storeys over them as there are storeys in the house to which they belong, each of such storeys being connected with the main building by a gangway, or in the case of two separate privies two gangways or bridges, not more than three feet in width for each privy and not exceeding six feet in width in the aggregate.

(3) The provisions of sub-rule (2) shall apply only to the minimum area prescribed under this schedule for any court-yard or open space referred to in the said sub-rule.

34. All court-yards in a domestic building, and all other open spaces therein not exceeding six feet in width, shall be paved with some impermeable substance and drained to the satisfaction of the Corporation.

laying all
drainage of court-
yards and open
spaces

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 35—41.)

Space to be added to street not to be taken into account under rules 23, 24, 30 and 32.

35. Except with the permission of the Corporation, for the purpose of calculating the open space required to be left under rules 23, 24, 30 and 32, no space which falls within the alignment of a street or is included within the alignment of a projected public street shall be taken into account.

Open space prescribed for one site not to be taken for another site.

36. No building shall at any time be erected on any open space prescribed under this schedule for a building and forming part of the site thereof, nor shall such open space be taken into account in determining the area of any open space required, under this schedule, for any other building.

Position of privies in a domestic building.

37. No room other than a bath-room, privy or urinal shall be placed over a privy in a domestic building, and no privy shall be placed in a domestic building under any room other than a bath-room, privy or urinal.

Part V.—Buildings of the warehouse class.

Height of buildings of the warehouse class.

38. (1) In applying rule 3, sub-rule (1), to any building of the warehouse class situated in a locality in which the erection of buildings of the warehouse class is allowed by declaration under clause (d) of sub-section (1) of section 324, the said sub-rule shall be read as if fifty-six-and-a-half degrees were substituted for forty-five degrees.

(2) Sub-rule (2) of rule 3 shall not apply to any such buildings.

Open spaces for buildings of the warehouse class.

39. The provisions of rules 29 to 36 as to domestic buildings shall have effect in the case of buildings of the warehouse class which are not situated in a locality in which the erection of buildings of the warehouse class is allowed by declaration under clause (d) of sub-section (1) of section 324.

Floors of certain buildings of the warehouse class.

40. The floor of every building of the warehouse class intended to be used for the manufacture or storage of articles for human consumption shall be constructed of some impermeable material approved by the Corporation.

Additional open space for buildings of the warehouse class for loading or unloading carts.

41. (1) Every building of the warehouse class shall, in addition to any open space prescribed under rule 39, have attached thereto, for the accommodation and passage of carts used for the loading and unloading of goods, an open space, forming part of the site of the building, of such size as the Corporation may consider sufficient, regard being had to the dimension

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(Schedule XVII—Rules as to the use of building-sites and the execution of building-work—Rules 12—44)

of the building and the nature and extent of the business to be carried on therein

Provided that, if the Corporation consider that any court-yard, or any open space provided in pursuance of rule 39, is sufficient for the accommodation and passage of such carts, no separate space need be provided under this rule

(2) Except with the permission of the Corporation no structure which would impede the passage of carts shall be erected within or above, or so as to project over any open space provided under this rule

Part VI—Public buildings.

42. (1) The provisions of rules 25, 26, 27, 28, 30, 31, 32, 34, 35 and 37, as to domestic buildings, shall have effect in the case of public buildings

Application of certain provisions of Part IV to public buildings

(2) The provisions of rules 23, 24 and 29, as to dwelling houses, shall have effect in the case of any public building which is constructed, used or adapted to be used wholly or principally for human habitation, or is a school, college or other place of instruction

43. The floors of the lobbies, corridors, passages and landings of a public building shall be constructed of incombustible materials, the doors shall be constructed of fire-resisting materials, and the flights of stairs shall be constructed either of incombustible materials or of fire-resisting materials

Use of incombustible or fire-resisting materials

44. The following materials shall, for the purposes of rule 13, be deemed to be incombustible namely—

Materials to be deemed incombustible

(a) brick-work constructed of good bricks, well-burnt, hard and sound, properly bonded and solidly put together with—

(i) good mortar compounded of good lime and sharp clean sand, hard clean broken brick, broken flint, grit or slag well pulverized, or

(ii) good cement mixed with any of the materials mentioned in sub-clause (i),

(b) granite and other stone which is suitable for building purposes by reason of its solidity and durability,

(c) iron steel and copper,

(d) slate, tiles, bricks and terra-cotta, when used for coverings or corbels,

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 45—48.)

- (e) flag-stones when used for floors over arches, if not exposed on the underside and if not supported at the ends only;
- (f) concrete, composed of broken brick, stone chippings or selected slag and lime, cement or calcined gypsum—when the concrete is used for filling-in between joists of floors to a depth of not less than four inches, and
- (g) any combination of concrete, steel or iron or any other material approved in this behalf from time to time by the Executive Officer.

Materials to be deemed to be fire-resisting but not incombustible.

45. The following materials shall, for the purposes of rule 43, be deemed to be fire-resisting, but not incombustible, namely:—

- (a) *sal*, teak and other hard timber, when used for beams or posts or in combination with iron, the timber and the iron (if any) being protected by plastering in cement or other incombustible or non-conducting external coating,
- (b) in the case of doors, *sal*, teak or other hard timber not less than one-and-a-half inches thick, and
- (c) in the case of staircases, *sal*, teak or other hard timber, the treads and risers being not less than one inch and-a-half thick.

Walls for staircases.

46. The walls supporting or enclosing any staircase in a public building shall be of masonry and not less than ten inches thick.

Uniformity in treads and risers in staircases.

47. The treads and risers of each flight of stairs in a public building shall be of uniform width.

Width of staircases, internal corridors and passage-ways.

48. (1) No staircase, internal corridor or passage-way in a public building shall be less than six feet wide:

Provided that, where not more than two hundred persons are to be accommodated in any public building, any staircase, internal corridor or passage-way may be of any width not less than four feet six inches.

(2) Every staircase, internal corridor or passage-way in a public building, which communicates with any portion of the building intended for the accommodation of more than four hundred persons, shall be wider than six feet by six inches for every hundred persons over four hundred, subject to a maximum width of nine feet.

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(Schedule XVII—Rules as to the use of building-sites and the execution of building-work—Rules 49—53.)

(3) Notwithstanding anything contained in sub-rule (1) and sub-rule (2), instead of a single staircase, corridor or passage-way of the width prescribed by sub-rule (2), there may be two staircases, corridors or passage-ways, each being of a width equal to at least two-thirds of the width so prescribed.

49. If the width of any staircase in a public building is eight feet or more, the staircase shall be divided by a hand-rail

Division of
wide staircase
by hand rail

50. If some of the persons accommodated in a public building are placed on a higher floor than others, separate means of exit, of the width prescribed by rule 48, sub-rules (1), (2) or (3), is the case may be, and communicating directly with a public street or an open space, shall be provided for each floor

Separate means
of exit from
floors on different
levels

Provided that this rule shall not apply to a hotel or lodging-house, or to any public building which is used as a home, refuge or shelter

51. All doors and barriers in a public building shall be made to open outwards, and no locks or bolts for closing the same from outside shall be affixed thereto

Doors and
barriers to open
outwards

Part VII.—Applications for permission to erect new buildings (other than huts).

52. (1) Every person who intends to erect a new building (other than a hut) shall send to the Corporation an application for permission to execute the work, together with a site-plan of the land, a plan of the whole building, separate plans of each floor of the building, complete elevations and sections of the work and a specification of the work.

Application to
Corporation for
permission to
erect a masonry
new building

(2) Every document referred to in sub-rule (1) shall contain the particulars and be prepared in the manner hereinafter in this part prescribed in this behalf

53. (1) Every application made under rule 52 shall be written on a printed form (to be supplied by the Corporation free of charge), and shall state the position of the site, the number assigned to it in the assessment-book and its dimensions, the description of the building and its dimensions, and such other particulars as may be prescribed by the Corporation

Particulars
to be furnished in
and with such
application.

(2) The site-plan sent with such an application shall be drawn to a scale of not less than one-thirtieth

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 53.)

of an inch to the foot, shall be sent in triplicate, and shall show—

- (a) the boundaries of the site and of any contiguous land belonging to the owner thereof ;
- (b) the position of the site in relation to neighbouring streets ;
- (c) the name of the street in which the building is proposed to be situated ;
- (d) all existing buildings standing on the site ;
- (e) the position of the building, and of all other buildings (if any) which the applicant intends to erect upon his contiguous land referred to in clause (a), in relation to—
 - (i) the boundaries of the site, and in a case where the site has been partitioned, the boundaries of the portion owned by the applicant and also of the portions owned by the other owners,
 - (ii) all adjacent streets, buildings and premises within a distance of forty feet of the site and of the contiguous land (if any) referred to in clause (a), and
 - (iii) (if there is no street within a distance of forty feet of the site) the nearest existing street or some street projected under section 308 or sanctioned under section 314 ;
- (f) the means of access from the street to the building, and to all other buildings (if any) which the applicant intends to erect upon his contiguous land referred to in clause (a) ;
- (g) the position and the number of storeys of all other buildings within forty feet of the site ;
- (h) the position, form and dimensions of kitchens, staircases, privies, urinals, drains, cesspools, stables, cattle-sheds, cow-houses, wells and other appurtenances of the building ;
- (i) free passage or way in front of the building ;
- (j) space to be left about the building to secure a free circulation of air, admission of light and access for scavenging purposes ;

of 1923.]

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rule 53.)

- (k) the width of the street (if any) in front, and of the street (if any) at the side or rear, of the building, and
- (l) such other particulars as may be prescribed by the Corporation

Explanation to clause (d)—If it is intended to demolish or alter any existing building on the site, such building shall be particularly specified, and it shall be expressly stated in the aforesaid application that the applicant undertakes to demolish or alter the same, as the case may be.

(3) The plans of the building and the elevations and sections accompanying such an application shall be properly coloured and neatly and accurately drawn to a scale of not less than one-eighth of an inch to the foot and shall be sent in triplicate, and the said plans shall show—

- (a) the levels and width of the foundation of the building,
- (b) the level of the lowest floor of the building; and
- (c) the level of all court-yards and open spaces, and the plinth-level of the building, with reference to the level at the centre of the nearest street.

(4) The specification accompanying such an application shall comprise full information as to the following particulars, namely—

- (i) the materials and method of construction to be used for external walls, party walls, foundations, roofs, floors, fire-places and chimneys;
- (ii) the manner in which roof and house drainage and the surface drainage of land will be disposed of;
- (iii) the manner (if any) in which it is proposed to pave the court-yards and open spaces, and the slope to which the surface is to be made in each case;
- (iv) the means of access that will be available to scavengers to get to service-privies;
- (v) the purpose for which it is intended to use the building;

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 54, 55.)

- (vi) if the building is intended to be used as a dwelling-house for two or more families, or as a place for carrying on any trade or business in which more than twenty people may be employed, or as a place of public resort,—the means of ingress and egress to and from such building; and
- (vii) such other particulars as may be prescribed by the Corporation.

*Explanation to clause (v).—*If it is intended to use the building or any part thereof for any of the purposes specified in Schedule XIX, or as a stable, cattle-shed or cow-house, the fact shall be expressly stated.

Signature of
plans, elevations
and sections.

54. The plans, elevations and sections referred to in rule 52 shall be signed clearly and in a prominent place by the owner of the building and by the licensed building surveyor who has prepared the same as required by section 323.

Necessary employment of
licensed building
surveyor or other
competent person
to supervise building.

55. (1) Every person who intends to erect a new building (other than a hut) which is likely, in the opinion of the Corporation, to cost not less than fifty thousand rupees, or such other amount as may be fixed from time to time by the Corporation, shall employ a licensed building surveyor, or any other competent person who is approved by the Corporation, to supervise the erection of such building.

(2) The name of the person to be so employed shall be stated in the application made, under rule 52, in respect of such building.

(3) If the person to be so employed is not a licensed building surveyor, the Corporation may, within seven days of the receipt of the said application, refuse to approve his employment, and may return the application for amendment;

and such application shall thereupon be deemed not to have been made until it has been re-submitted duly amended.

(4) If the person so employed dies or ceases to be so employed before the completion of the said building, the further erection of the same may be continued for a period of a fortnight, but shall then be suspended until—

(a) a licensed building surveyor whose name shall forthwith be reported to the Corporation, or

(b) any other competent person approved by the Corporation,

has been employed to supervise such erection.

of 1923.]

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 56, 57.)

56. (1) All information and documents which it may be found necessary to require, and all objections which it may be found necessary to make before deciding whether permission to erect a new building (other than a hut) should be given, shall be respectively required and made in one requisition, and the applicant shall be apprised thereof at the earliest possible date

Formulation of requirements and objections

(2) Within fifteen working days after the receipt of any application under rule 52 for permission to execute any work, the Corporation may require the applicant—

- (i) to furnish them with any information on matters referred to in that rule which has not already been given in the documents received thereunder, or with any document prescribed by that rule which has not been sent in; or
- (ii) to satisfy them in regard to any objections which may have been taken under these rules to the grant of permission to execute the work.

(3) If any information or documents furnished under sub-rule (2) are, in the opinion of the Corporation, incomplete or defective, they may, within fifteen working days after the receipt of the same, require further information or documents to be furnished

(4) If any requisition made under sub-rule (2) or sub-rule (3) is not complied with within three months, the application received under rule 52 shall be refused.

57. (1) Within fifteen days after the receipt of any application made under rule 52 for permission to execute any work, or of any information or documents or further information or documents required under this schedule, or within fifteen days after the Corporation have been satisfied that there are no objections which may lawfully be taken to the grant of permission to execute the work,

Permission to execute work when to be given or refused by the Corporation

the Corporation shall, by written order, either—

- (a) grant permission conditionally or unconditionally to execute the work, or
- (b) refuse, on one or more of the grounds mentioned in rule 59 or rule 63, as the case may be, to grant such permission.

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 58, 59.)

(2) When the Corporation grant permission conditionally under clause (a) of sub-rule (1), they may in regard thereto impose such conditions, consistent with this Act, as they may think fit.

(3) Notwithstanding anything contained in sub-rules (1) and (2), in any case in which it appears to the Corporation that any public improvements which may render necessary the acquisition of the site of a proposed building or any part thereof are desirable and expedient, they may withhold sanction to the building plans submitted in respect of such building for a period not exceeding three months from the date of such submission.

58. If within the period prescribed by rule 57, the Corporation have neither granted nor refused to grant permission to execute any work, such permission shall be deemed to have been granted; and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or of any rules or by-laws made thereunder.

59. The only grounds on which permission to erect a new building (other than a hut) may be refused are the following namely:—

(1) that the work, or any of the particulars comprised in the site-plan, building-plans, elevations, sections or specification would contravene some specific provision of this Act or some specific order, rule or by-law made thereunder;

(2) that the application for such permission does not contain the particulars or is not prepared in the manner prescribed in this schedule;

(3) that, in the case of a new building (other than a hut) falling within the street alignment or building-line of a public street projected under section 63 of the Calcutta Improvement Act, 1911¹, the permission of the Chairman of the Board of Trustees for the Improvement of Calcutta has not been obtained;

(4) that any of the documents referred to in rule 52 have not been signed as prescribed in rule 54;

(5) that any information or documents required by the Corporation under this schedule have not been duly furnished; or

(6) that the applicant has not satisfied the Corporation in regard to any objections which may have been taken under these rules to the grant of the said permission.

Remedy if Corporation delay grant or refusal of permission.

Grounds on which permission to erect a masonry new building may be refused.

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(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 60—64)

60. When the Corporation have given permission to execute any work, the approved plans of the work shall be signed by such officer and in such manner as they may direct Signature of
approved plans

61. When permission to erect a new building (other than a hut) is refused,— Retention of
plan and submis-
sion of fresh
application after
refusal to permit
execution of
work

(a) the Corporation shall retain one copy of the plans submitted, and shall without charge furnish the applicant with their reasons for such refusal, in writing, and

(b) the applicant may at any time thereafter send to the Corporation a fresh application and fresh or modified documents under rule 52 framed with the object of meeting the objections for which such permission was refused

62. Subject to the provisions of rule 55, the erection of a new building (other than a hut) shall not be commenced unless and until the Corporation have granted written permission for the execution of the work on an application sent to them under rule 52 Work not to be
commenced unless
and until permis-
sion given

63. Notwithstanding anything contained in rule 59— Special powers
to Corporation to
suspend or grant
permission to
erect a masonry
building or con-
vert huts, etc.
into a masonry
building

(a) if any street shown in the site-plan is an intended private street, the Corporation may, in their discretion refuse to grant permission to erect a masonry building or to convert one or more huts or temporary structures into a masonry building until the street is commenced or completed and

(b) the Corporation may for special reasons grant permission to erect a masonry building, or to convert one or more huts or temporary structures into a masonry building, on any site without reference to its position in relation to any street.

64. (1) If the erection of any new building (other than a hut) is not commenced, and a substantial portion of it is not completed, within three years after the date on which permission was given to execute the work, the work shall not be commenced or continued until a fresh application has been made and a fresh permission granted under this schedule. Lapse of per-
mission, if not
acted upon within
three years, or, if
granted before a
certain date,
except in certain
circumstances

(2) At any time before the expiry of three years from the date on which such permission was given the person to whom it was granted may apply to the Corporation for a certificate that the building has

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 65—68.)

been commenced and a substantial portion of it already completed; and the Corporation shall thereupon cause the said building to be inspected, and if they consider that a substantial portion of it has been completed, they shall grant a certificate to that effect.

(3) If any masonry building, permission to erect which was granted before the commencement of this Act, is not wholly completed within three years from the commencement of this Act, the said permission shall be deemed to have lapsed, and any work done thereunder, after the said three years, shall be deemed to have been done without permission:

Provided that the Corporation may, for special reasons, extend the said period of three years.

Power to Corporation to cancel permission on the ground of material misrepresentation by applicant.

65. If, at any time after permission to erect any masonry building has been given, the Corporation are satisfied that such permission was granted in consequence of any material misrepresentation or fraudulent statement contained in the application made under rule 52, or in the plans, elevations, sections or specifications submitted therewith in respect of such building, they may cancel such permission, and any work done thereunder shall be deemed to have been done without permission.

Part VIII.—Huts.

Continuous lines.

66. (1) Huts in a *bustee* shall be built in continuous lines, in accordance with an alignment to be prescribed by the Corporation and demarcated on the ground, after hearing the objections (if any) of the owner of the *bustee* and the owners of the huts affected by the alignment.

(2) If the Corporation are of opinion that huts in a *bustee* are likely to be erected hereafter on any vacant land they may, after hearing the objections (if any) of the owner of the land and the owners of the huts affected by the alignment,—

(a) prescribe alignments for huts on such land, and

(b) from time to time alter such alignments.

Distance between eaves and alignment

67. When an alignment has been prescribed under rule 66, no hut shall be erected so that the distance measured from its eave to such alignment is less than six feet.

Use of spaces referred to in rule 67.

68. All spaces referred to in rule 67, between a hut and an alignment, shall remain private property, subject to a right in the Corporation to use them for

of 1923.]

(Schedule XVII—Rules as to the use of building-sites and the execution of building-work.—Rules 69–77.)

the purposes of scavenging or for any of the other purposes of this Act.

Provided that, notwithstanding anything contained in the Indian Limitation Act, 1908¹, no such use shall, by reason of any lapse of time, be held to confer any right on any person so as prejudicially to affect the rights of the owner of the *bustee*.

69. Notwithstanding anything contained in rule 66 or rule 67 huts in a *bustee* may, with the special sanction of the Corporation, be erected so as to form an open court-yard comprising at least one-fourth of the whole area occupied by the huts and court-yard.

1 section of huts
in a *bustee* in
court yard for-
mation

Provided that no hut erected under this rule shall contain more than one-storey.

70. Where huts other than huts in a *bustee* are erected so as to form an open court-yard, the area of the court-yard shall not be less than one-fourth of the area occupied by the huts and court-yard.

Area of court
yard in huts not
in a *bustee*

71. There shall be between any two huts a space of at least three feet, measured from eave to eave.

Space between
huts.

72. Except with the sanction of the Corporation, no hut shall be placed at a greater distance than one hundred feet from the nearest part of a metalled and sewered street, unless there be a municipal or *bustee* drain at a distance of not more than twenty feet from the site of such hut.

Distance of huts
from metalled
and sewered
street

73. Except with the sanction of the Corporation, no portion of a hut shall be placed within six feet of a masonry building.

Distance
between hut and
masonry building

Provided that this rule shall not preclude the erection of huts in the compound of a masonry building in any case where masonry out-offices would be permissible.

74. No hut used for human habitation shall be placed within six feet of a cow-house, cattle-shed or stable.

Distance
between hut and
cow house, etc

75. Every hut abutting on a street or passage, whether public or private, shall be constructed so as not to project over, or admit of water from the roof falling upon, or injuring, such street or passage.

Prohibition of
projections or
drainage of water
over street or
passage

76. No hut shall comprise more than two-storeys or shall exceed twenty feet in height, measured from the floor level to the junction of the walls with the roof.

Height—

77. The floor-level of a hut shall be raised at least two feet above the level of the centre of the nearest street or passage, and the floor shall be paved

Height.

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 78—80.)

with brick-on-edge, cement, concrete or some similar material approved by the Corporation :

Provided that the floor of a stable or cow-shed may be one foot above such level.

Rooms.

78. (1) The whole of at least one side of every room in a hut shall either be an external wall or abut on an open court-yard or on an open verandah.

(2) Every room in a hut, which is intended to be used as an inhabited room, shall—

(a) be provided with a doorway of not less than fifteen square feet in area ;

(b) be provided with a window or windows opening directly into the external air or into an open verandah, and having an opening of not less than one-fifteenth of the floor area of the room ;

(c) have a superficial area of not less than eighty square feet ; and

(d) have a height of not less than eight feet measured from the floor-level to the junction of the walls with the roof.

Court-yards.

79. (1) The court-yard (if any) of a hut shall be so raised that the upper surface shall be one foot above the level of the nearest street or passage, and shall be drained into the nearest drain.

(2) The width of such court-yard shall be not less than eight feet.

(3) Every such court-yard shall be paved with some impermeable material.

Part IX.—Applications, or permission to erect new buildings which are huts.

Application to be sent, and particulars furnished, to Corporation by person intending to erect a hut.

80. (1) Every person who intends to erect a new building which is a hut on any land shall send to the Corporation—

(a) an application for permission to execute the work,

(b) a site-plan of the land,

(c) plans and sections of the hut, and

(d) a specification of the work.

(2) Every such application shall contain the particulars and be prepared in the manner prescribed in that behalf in this schedule,

and every such plan, section and specification shall be signed by the licensed building surveyor who has prepared the same as required by section 323.

of 1923.]

(Schedule XVII—Rules as to the use of building-sites and the execution of building-work—Rules 81, 82.)

81. (1) Every application for permission to erect a new building which is a hut shall be written on a printed form to be supplied by the Corporation free of charge.

Application for permission to erect a hut

(2) If it is intended to use the hut, or any part thereof, for any of the purposes specified in Schedule XIX, or as a stable, cattle-shed, or cow-house, the fact shall be expressly stated in the said application.

(3) The plans sent with such an application shall be drawn to a scale of not less than one-eighth of an inch to the foot, shall include a site-plan drawn to a scale of fifty feet to the inch, shall be properly coloured, shall be sent in triplicate, and shall show—

- (i) the hut,
- (ii) the privy provided or to be provided for the use of occupants of the hut,
- (iii) the position and size of the doors and windows,
- (iv) all existing buildings standing on the site,
- (v) the means of access to the hut from the street or passage on which it abuts,
- (vi) the position of the hut in relation to all huts, streets, passages, privies and tanks within a distance of fifty feet from the site, and
- (vii) such other particulars as may be prescribed by the Corporation

Explanation to clause (iv)—If it is intended to demolish or alter any existing building on the site, such building shall be particularly specified and it shall be expressly stated in the aforesaid application referred to in sub-rule (1) that the applicant undertakes to demolish or alter the same, as the case may be.

82. (1) The Corporation may, on receipt of an application under rule 80, require the applicant—

Power to Corporation to require further information or a proper site plan

- (a) to furnish them with any information on matters referred to in rule 80 which has not already been given in the documents received thereunder, or with a proper site-plan as prescribed by that rule, or
- (b) to satisfy them in regard to any objections which may have been taken under these rules to the grant of permission to execute the work.

(2) If any information or plan required under sub-rule (1) is, in the opinion of the Corporation, incomplete or defective, they may require further information or a fresh plan to be furnished

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 83—86.)

(3) If any requisition made under sub-rule (1) or sub-rule (2) is not complied with within two months, the application received under rule 80 shall be refused.

83. The Corporation may—

- (a) on the application of any person who intends to erect a new building which is a hut, and
- (b) on payment, by such person, of such fees as the Corporation may prescribe in that behalf,

employ a licensed building surveyor to prepare, in respect of such hut, the plans, sections and specifications prescribed by rule 80.

84. Within fourteen days after the receipt of any application made under rule 80 for permission to erect a new building which is a hut, - or of any information or plan or further information or fresh plan required under this schedule, or within fourteen days after the Corporation have been satisfied that there are no objections which may lawfully be taken to the execution of the work, the Corporation shall, by written order, either grant such permission or refuse to grant the same on one or more of the grounds mentioned in rule 86.

85. If, within the period prescribed by rule 84, the Corporation have neither granted nor refused to grant permission to erect a new building which is a hut, such permission shall be deemed to have been granted; and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules or by-laws made thereunder.

86. The only grounds on which permission to erect a new building which is a hut may be refused are the following, namely:—

- (1) that the work would contravene some specific provision of this Act or some specific order, rule or by-law made thereunder;
- (2) that the application for such permission does not contain the particulars, or is not prepared in the manner, prescribed in this schedule;

Power to Corporation to employ licensed building surveyor to prepare site-plan, etc., for hut.

Permission to execute work when to be given or refused.

Remedy if Corporation delay grant or refusal of permission.

Grounds on which permission to erect a hut may be refused.

of 1923.]

(Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 87—89)

- (3) that, in the case of a new building which is a hut falling within the street alignment or building-line of a public street projected under section 63 of the Calcutta Improvement Act, 1911¹, the permission of the Chairman of the Board of Trustees for the Improvement of Calcutta has not been obtained,
- (4) that any plan, section or specification has not been signed as prescribed by rule 80, sub-rule (2);
- (5) that any information or plan required by the Corporation under this schedule has not been duly furnished; or
- (6) that the applicant has not satisfied the Corporation in regard to any objections which may have been taken under these rules to the grant of the said permission.

87. When permission to erect a new building which is a hut is refused,—

(a) the Corporation shall retain one copy of each of the plans, and shall without charge furnish the applicant with their reasons for such refusal in writing, and

(b) the applicant may at any time send to the Corporation a fresh application and a fresh or modified plan under rule 80 framed with the object of meeting the objections for which such permission was refused.

88. (1) Subject to the provisions of rule 85, the erection of a new building which is a hut shall not be commenced unless and until the Corporation have granted written permission for the execution of the work on an application sent to them under rule 80.

(2) If any hut, permission to erect which was granted before the commencement of this Act, is not wholly completed within three years from the commencement of this Act, the said permission shall be deemed to have lapsed and any work done thereunder, after the said three years, shall be deemed to have been done without permission.

89. If the erection of any new building which is a hut is not commenced within six months after the date on which permission was given to execute the work, the work shall not be commenced until a fresh application has been made and a fresh permission granted under this schedule.

Retention of plans, and submission of fresh application after refusal of permission to erect a hut.

Work not to be commenced unless and until permission given

Lapse of permission, if not acted upon within six months.

Schedule XVII.—Rules as to the use of building-sites and the execution of building-work.—Rules 90—92.)

Part X.—Application of rules in this schedule to alterations of, and additions to, buildings.

Relaxation of rule 3.

90. In applying rule 3 in the case of an alteration of, or addition to, any building, the angle at which the lines referred to in sub-rule (1) of that rule are to be drawn shall be fifty-six-and-a-half degrees instead of forty-five degrees :

Provided that nothing contained in this rule shall authorize any addition to a building which would make it higher than any building which, at the commencement of this Act, was standing on the same portion of the site unless it is otherwise permissible under this schedule.

Applicability of rule 30 to alterations and additions above the ground floor.

91. Rule 30 shall apply to alterations of, or additions to, any domestic building, public building or building of the warehouse class [not situated in a locality in which the erection of buildings of the warehouse class is allowed by declaration under clause (d) of sub-section (1) of section 324] above the ground-floor, even though the open space required under the said rule has not been left on the ground-floor.

Restriction on application of rules 52 to 65, or 80 to 89.

92. (1) Rules 52 to 65, or rules 80 to 89, as the case may be, shall not be applied in the case of any alteration of, or addition to, a building unless one or more of the following works is or are undertaken, namely :—

- (a) the construction or re-construction of a roof or an external or party wall,
- (b) any repairs to the building which involve the re-construction of—
 - (i) a masonry wall,
 - (ii) the floor of a room (excluding the ground-floor),
 - (iii) a lift-shaft, or
 - (iv) a chimney,
 after the same has been entirely or in great part demolished,
- (c) the closing of any door or window in an external wall,
- (d) the construction of an internal wall or partition,
- (e) any other alteration of the internal arrangements of a building which affects an alteration of its court-yard or court-yards or its drainage, ventilation or sanitary arrangements, or which affects its security,

of 1923.]

(Schedule XVII—Rules as to the use of building-sites and the execution of building-work.—Rules 93, 94.)

(f) the addition of any building, room, out-house or other structure,

(g) the roofing of any space between one or more walls and buildings,

(h) the conversion into more than one place for human habitation of a building originally constructed as one such place,

(i) the conversion of two or more places of human habitation into a greater number of such places, or

(j) the alteration of a building for the purpose of effecting a partition amongst joint owners

(2) In the case referred to in clause (g) of sub-rule (1), the said rules 52 to 65, or rules 80 to 89, as the case may be, shall apply only as regards the structure which is formed by roofing a space, and not as regards adjoining buildings

93. (1) If, in any case of urgency arising from causes beyond his own control, any person desires to undertake without delay any of the works referred to in rule 92, he may send to the Corporation an application for provisional permission to proceed with the work.

Grant of provisional permission to proceed with work in cases of urgency

(2) Such application shall contain an explanation of the urgency and a general description of the work proposed to be undertaken

(3) Within a period of three days after the receipt of any such application, the Corporation shall, by written order, either grant or refuse to grant provisional permission to proceed with the work.

(4) If, within the said period of three days, the Corporation have neither granted nor refused to grant such provisional permission, the same shall be deemed to have been granted and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or of any rule or by-law made thereunder.

(5) Whenever such provisional permission is granted, and in any case provided for by sub-rule (4), the applicant shall, within fifteen days, send to the Corporation a regular application for permission to execute the work, and if he fails to do so, the provisional permission shall be deemed to be withdrawn.

94. (1) Notwithstanding anything contained in this schedule, but subject to the provisions of section 331, the Corporation may at any time, in dealing with any application to erect a new building as defined in sub-clauses (b) (c) or (d) of clause (16) of

power of the Corporation to relax certain rules as provided under section 331

*(Schedule XVII.—Rules as to the use of building-sites
and the execution of building-work—Rule 94.)*

section 3 or to add to, alter, or do any other work referred to in section 330 to, any building erected before the first day of April, 1900, relax, for special reasons to be recorded in writing, the following rules in this schedule in the manner and circumstances specified hereunder, namely:—

- (a) Rules 30 and 32 may be relaxed so as to prevent the demolition of any material part of any masonry building existing on the space required to be kept open under the said rules:

Provided that—

- (i) the new building conforms to the other rules of this schedule; and
- (ii) in no case shall the height or extent of the buildings on the said space be increased or added to, unless this is otherwise permissible under the said rules.

- (b) Rule 29 may be relaxed provided that the building conforms with the provisions of either rule 23 or rule 30.

(2) Notwithstanding anything contained in this schedule, but subject to the provisions of section 331, the Corporation may at any time, in dealing with an application to add to, alter, or do any work referred to in section 330 to, any building erected before the 1st day of April, 1900, relax, for special reasons to be recorded in writing, rule 23, provided that some substantial increase is nevertheless made in the area of the open space belonging to the premises and already forming a part of the site.

of 1923.]

(Schedule XVIII—Rules for the inspection and regulation of land and buildings—Rules 1—3.)

SCHEDULE XVIII.

RULES FOR THE INSPECTION AND REGULATION OF LAND AND BUILDINGS

[See sections 364 (11), 380 384 and 488]

1. (1) The Corporation may cause any building or other premises to be inspected for the purpose of ascertaining the sanitary condition thereof

Power to inspect premises for sanitary purposes

(2) If the Corporation have reason to believe that any building is used as a public lodging-house or is let out in rooms to twenty-five or more lodgers, such inspection may be made at any time by day or by night

Provided that no such inspection shall be made by night except by an officer specially authorized by the Health Officer in that behalf.

2. If it appears to the Corporation necessary for sanitary reasons so to do, they may, by written notice, require the owner or occupier of any building inspected under rule 1 to cause the same or any portion thereof to be lime-washed or otherwise cleansed, either externally or internally or both externally and internally.

Power to Corporation to require cleansing and lime-washing of building

3. If any land or building,—

(a) by reason of abandonment or disputed ownership or for any other reason, remains untenanted and thereby becomes a resort of idle and disorderly persons, or

(b) is in a filthy or unwholesome state, or

(c) is complained of by any two or more of the persons residing in its neighbourhood as a nuisance,

Power to Corporation to require owner to secure, enclose, cleanse, or clear land or building which is untenanted, filthy or a nuisance

the Corporation, after due inquiry, may give written notice to the owner or to any person who is known or believed to claim to be the owner,

and shall also affix a copy of the said notice on the door of the building or on some conspicuous part of the land, as the case may be,

requiring the said owner or any person who is known or believed to claim to be the owner properly to secure, enclose, cleanse or clear the same or otherwise abate the nuisance.

(Schedule XVIII.—Rules for the inspection and regulation of land and buildings.—Rules 4–6.)

Power to Corporation to demolish, repair or secure wall, building or fixture in a ruinous state, etc.

4. (1) If any wall or building, or anything affixed thereto, be deemed by the Corporation to be in a ruinous state, or likely to fall, or to be in any way dangerous, they shall forthwith cause a written notice to be served on the owner and also to be put on some conspicuous part of the wall or building or served on the occupier (if any) of the building, requiring such owner or occupier, forthwith to demolish, repair or secure such wall, building or thing as the case may require.

(2) The Corporation may also, if it appears to them to be necessary to do so, cause a proper hoarding or fence or other means of protection to be put up at the expense of the owner of such wall or building, for the safety of the public or the inmates thereof; and may also, after giving them such notice as the Corporation may think necessary, require the inmates of the building to vacate it.

(3) The provisions of this Act and of any rules or by-laws made thereunder relating to buildings shall apply to any work done in pursuance, or in consequence, of a notice issued under sub-rule (1).

Power to Corporation to sell materials of buildings demolished in pursuance of notice issued under rule 4.

5. If any building, or any part of a building, be demolished by the Corporation under section 510, in pursuance of a notice issued under rule 4, they may sell the materials thereof and apply the proceeds of such sale in payment of the expenses incurred, and shall, on demand, restore to the owner any surplus arising from such sale.

Further powers to Corporation with reference to insanitary or congested buildings

6. (1) Whenever the Corporation consider—

(a) that any building is, by reason of its having no plinth or having a plinth of insufficient height, or by reason of the want of proper drainage or ventilation, or by reason of the impracticability of cleansing, attended with risk to the health of the occupiers thereof or to the inhabitants of the neighbourhood, or is for any reason likely to endanger the public health, or

(b) that any block of buildings is, for any of the said reasons, or by reason of the manner in which the buildings are crowded together, attended with such risk as aforesaid,

they may cause a written notice to be fixed to some conspicuous part of the building or block, requiring the owners or occupiers thereof, or, at the option of the Corporation, the owners of the land occupied

of 1923.]

(Schedule XVIII.—Rules for the inspection and regulation of land and buildings.—Rule 7)

by such building or block, to execute such works or take such measures as the Corporation may deem necessary for the prevention of such risk

(2) Where any building, or part thereof, in respect of which a notice has been issued under sub-rule (1), has been demolished in pursuance of an order made by a Magistrate under section 361, the Corporation shall pay reasonable compensation to the owner thereof.

7. (1) When—

- (a) any well, pool, ditch, tank, pond, pit or marshy or undrained ground, or
- (b) any cistern, reservoir or water-buttr or any other receptacle or place where water is stored or accumulates, or
- (c) any waste or stagnant water, whether within any private enclosure or not.

Lower to Corporation to direct the filling up, etc., of unwholesome wells, pools, etc

appears to the Corporation to be or to be likely to become injurious to health or offensive to the neighbourhood or in any other respect a nuisance, they may, by written notice, require the owner or occupier of the land or building to which such well, pool, ditch, tank, pond, pit, ground, cistern, reservoir, water-buttr, receptacle, place or water pertains,

to cleanse or to fill up the same with suitable material or to drain off or remove water therefrom or to take such other order therewith as the Corporation may deem necessary.

(2) Where, in the opinion of the Health Officer, such well, pool, ditch, tank, pond, pit, ground, cistern, reservoir, water-buttr, receptacle, place or water is or is likely to become a breeding place for mosquitoes, he may enter upon the premises to which it pertains and take such steps as he thinks proper to cleanse the same.

(3) If the Corporation, in exercise of the powers conferred by section 510, execute any work referred to in a notice issued under sub-rule (1), and if the person liable to pay the expenses of such work fails to pay the same, the Corporation may, until such expenses are paid,—

- (i) lease any part of the land used in connection with the said well, pool, ditch, tank, pond, pit, cistern, reservoir, water-buttr, receptacle, place or water, or any part of the land ground, as the case may be, or
- (ii) retain possession of the same, or the site thereof, and utilize it for public purposes.

(Schedule XVIII.—Rules for the inspection and regulation of land and buildings.—Rules 8, 9.)

(4) If the said expenses be paid by an occupier of land, he may, in the absence of any agreement to the contrary, deduct the same from any rent due to the owner of the land.

8. On receipt of a written report from the Health Officer of the existence of a serious nuisance likely to affect the public health or to prove offensive to the neighbourhood, the Executive Officer may take immediate action for the abatement or removal of such nuisance.

9. (1) The Corporation may, by a general order, or by an order to affect such portion of Calcutta as may be specified therein, prohibit—

- (a) the making of excavations for the purpose of taking earth therefrom, or of storing rubbish or offensive matter therein, and
- (b) the digging of cesspools, tanks, ponds, wells or pits, without the special permission of the Corporation.

(2) Every such order shall be published in the *Calcutta Gazette*.

(3) No person shall make any excavation referred to in clause (a) of sub-rule (1), or dig any cesspool, tank, pond, well or pit, in contravention of any such order.

(4) If any such excavation, cesspool, tank, pond, well or pit is made or dug after the publication of any such order and without the permission required thereby, the Corporation may, by written notice, require the owner or occupier of the land on which the same is made or dug to fill it up with earth or other material approved of by the Corporation.

Power to Executive Officer to take action in case of a serious nuisance, affecting the public health.

Power to Corporation to regulate excavations.

of 1923.]

(Schedule XIX—*Certain purposes for which premises may not be used without a license*)

SCHEDULE XIX

CERTAIN PURPOSES FOR WHICH PREMISES MAY NOT BE
USED WITHOUT A LICENSE

[See sections 386, 389, 494 and 495, and Schedule XVII
rules 53 (1) and 81 (2)]

(1) Casting metals

(2) Manufacturing bricks, pottery or tiles

(3) As a knacker's yard

(4) As a hide godown or hide screw-house.

(5) As a manufactory or place of business from which offensive or unwholesome smells, fumes, or dust arise

(6) As a depôt for hay, straw, wood, coal, coke, waste-paper or rags

(7) Packing, pressing, cleansing, preparing or manufacturing, by any process whatever, any of the following articles, namely—

cloths or threads in	pottery,
indigo or other	
colours	
paper	silk

(Schedule XIX.—*Certain purposes for which premises may not be used without a license.*)

(8) Storing, packing, pressing, cleansing, preparing or manufacturing, by any process whatever, any of the following articles, namely :—

blasting powder, blood, bones, brass, candles, catgut, chemical preparations, china grass, cocoanut fibre, cotton (other than cotton pressed into bales), or cotton refuse or seed, dammer (resin or rosin), dynamite, fat (edible or non- edible), fins, fireworks, fish, flax, flour, fulminate of mercury, gas, glue, grain, gun-cotton. gun-powder, hair, hemp, hides, hoofs, horns, iron, jute, kaslin,	lampblack, leather, lime, manure, matches for lighting, meat, molasses, nitro-glycerine, offal, oil (edible or non- edible), oil-cloth, paint, pakra seed, pitch, rags, rosin, saltpetre, skins, soap, soap-stone, spirits, steel. sugar, sulphur, <i>surki</i> , tallow, tar, tin, tobacco, tow, turpentine, varnish, verdigris, waste-paper. wool.
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of 1923.]

(Schedule XX—Form of Certificate)

SCHEDULE XX.

FORM OF CERTIFICATE

*(See sections 423 and 425.)*To¹

I, the undersigned, public analyst for the
do hereby certify that I received on the
day of 19 , from² a
sample of for analysis (which then
weighed³) and have analysed the same
and declare the result of my analysis to be as
follows —

I am of opinion that the same is a sample of

*Observations*⁴

Signed this day 19 .

A B

at

¹ Here insert the name of the person submitting the article for analysis

² Here insert the name of the person delivering the sample. If the sample is received by post or by railway entry should be made accordingly

³ When the article cannot be conveniently weighed this passage may be erased or the blank may be left unfilled

⁴ Here the analyst must insert at his discretion his opinion as to whether the mixture (if any) was for the purpose of rendering the article edible or palatable, or of preserving it, or of improving its appearance or was unavoidable, and may state whether it was in excess of what is ordinary or otherwise

NOTE — In the case of a certificate regarding milk, butter or any article liable to decomposition the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis

(Schedule X.VII.—Registration of deaths.)

SCHEDULE XXII

REGISTRATION OF DEATHS.

(See sections 450, 452, 453 and 455.)

19 . Deaths in the district of

[illegible]

[Ben. Act III of 1923.]

(Schedule XXIII.—Form of notice to be issued on yellow paper and affixed on premises when other means of service not available.)

SCHEDULE XXIII.

FORM OF NOTICE TO BE ISSUED ON YELLOW PAPER AND
AFFIXED ON PREMISES WHEN OTHER MEANS OF
SERVICE NOT AVAILABLE.

(See sections 504 and 505.)

To *(name and address)*

[or, to the owner or occupier of (number of building or description of land and number of premises in assessment-book).]

Take notice that a bill *(or, as the case may be)* has been issued against you to the following effect *(state the substance of the document)* and that you are required to *(state the requirement as mentioned in the document)*.

Dated this day of

*(Signature of municipal officer
or other person issuing the notice.)*

BENGAL ACT No. IV OF 1923.

[THE BENGAL SMOKE-NUISANCES
(AMENDMENT) ACT, 1923.]¹

[8th August, 1923]

*An Act further to amend the Bengal Smoke-
Nuisances Act, 1905*

WHEREAS it is expedient further to amend the Bengal Smoke-Nuisances Act, 1905,² in the manner hereinafter appearing, Preamble

And whereas the previous sanction of the Governor General under sub-section (3) of section 80A of the Government of India Act has been obtained to the passing of this Act, Amendment of sections 6 and 7 of Bengal Act III of 1905.

It is hereby enacted as follows —

1. This Act may be called the Bengal Smoke-Nuisances (Amendment) Act, 1923 Short title.

2. (1) To clause (a) of sub-section (1) of section 6 of the Bengal Smoke-Nuisances Act, 1905, as amended by subsequent legislation³ (hereinafter referred to as the said Act), the words "clamps for making bricks, or" shall be added.

(2) In sub-section (2) of section 6 and in three places in section 7 of the said Act after the word "kiln" the word "clump" shall be inserted.

3. In sub-section (2) of section 10 of the said Act— Amendment of section 10

(a) the word "and" at the end of clause (j) shall be omitted, and

¹ For statement of Objects and Reasons, see Calcutta Gazette, 17 3, Pt. IV, p. 201, and for Proceedings in Council, see the Bengal Legislative Council Proceedings, 1923 Vol. XII p. 62-63.

² Bengal Code Vol. III

³ i.e., by the Bengal Smoke-Nuisances (Amendment) Act, 1916 (Ben. Act 1 of 1916) and, 25

804 THE BENGAL SMOKE-NUISANCES (AMENDMENT)
ACT, 1923.

[Ben. Act IV of 1923.]

(Section 3.)

(b) after clause (j) the following shall be inserted,
namely :—

“(jj) prescribe a scale of fees for the
examination and approval of
plans, the inspection and testing.
and the grant of permission for
the working of furnaces, flues
and chimneys and generally for
the services of Inspectors ; and ”.

BENGAL ACT No. V OF 1923.

[THE BENGAL CHILDREN (AMENDMENT)
ACT, 1923.]¹

[1st August, 1923.]

*An Act to amend the Bengal Children Act, 1922,
with a view to facilitate its early extension to the
town and port of Calcutta the suburbs of
Calcutta and Howrah*

Ben Act II
of 1923

WHEREAS it is expedient to amend the Bengal Children Act, 1922,² in the manner hereinafter appearing;

Preamble

b & b, Geo
v c ul G &
Geo v, c
17 J & 19,
Geo v c 101

And whereas the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act,

It is hereby enacted as follows —

1. This Act may be called the Bengal Children (Amendment) Act, 1923

Short title

2. In sub-section (3) of section I of the Bengal Children Act, 1922 (hereinafter referred to as the said Act), after the word "force" the words "in whole or in part" shall be inserted and after the word "direct" the words "and for this purpose different dates may be appointed for different provisions of this Act and for different parts of the area defined in sub-section (3)" shall be added

Amendment
section 1
of
Bengal Act II
of 1922

3. To section 28 of the said Act the following shall be added, namely —

Amendment
section 28

"(4) Notwithstanding anything contained elsewhere in this Act no order shall be passed sending a child to an industrial school, unless the court is satisfied that accommodation suitable for such child is available."

¹ For Statement of Objects and Reasons, see Bengal Act No. 19 of 1923, p. 237, and the Proceedings in Council, see the Bengal Legislative Council Proceedings, 1923, vol. VII, pp. 23-41.

² Act No. 1 of 1922.

806 THE BENGAL CHILDREN (AMENDMENT) ACT,
1923.

[Ben. Act V of 1923.]

(Section 4.)

Amendment of
section 37.

4. To section 37 of the said Act the following shall be added, namely :—

“(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a Juvenile Court established for the suburbs of Calcutta, as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866, or a Magistrate of the district of the 24-Parganas exercising powers under this Act, may inquire into and try in such place within Calcutta as the Local Government may direct the case of any child or young person who is accused of committing any offence within those suburbs, and such inquiry or trial shall for the purposes of jurisdiction be deemed to be held in the suburbs of Calcutta as so defined.

Any such accused person may be detained, pending trial or on conviction, in any place in Calcutta, which is set apart, under the provisions of this Act or the rules made thereunder, for the reception of children or young persons.”

BENGAL ACT No. VI OF 1923.

[THE CALCUTTA PORT (AMENDMENT)
ACT, 1923.]¹

[15th August, 1923.]

An Act further to amend the Calcutta Port Act, 1890

WHEREAS it is expedient further to amend the Calcutta Port Act, 1890,² in the manner hereinafter appearing,

Preamble

And whereas the previous sanction of the Government-General has been obtained under section 80A, sub-section (3), of the Government of India Act, to the passing of this Act,

It is hereby enacted as follows —

1. This Act may be called the Calcutta Port (Amendment) Act, 1923

Short title

2. After section 21A of the Calcutta Port Act, 1890 (hereinafter called the said Act), the following shall be inserted, namely —

New sections 21B and 21C

“21B (1) The Commissioners in meeting may,

Establishment of reserve fund

from time to time, set aside

such sums out of their revenue surplus, as they think fit, as a reserve fund or funds for the purpose of providing against any temporary decrease of revenue or increase of expenditure from transient causes or for purposes of replacement, or for meeting expenditure arising from loss or damage from fire, ship-wreck or other accident or for any other emergency arising in the ordinary conduct of their work under this Act

Provided that the sums set aside as a reserve fund or funds shall not exceed such amount, annual or in the aggregate, as shall from time to time be prescribed by the Local Government.

(2) Such reserve fund or funds may be invested only in the promissory notes and other securities of the Government of India, or in the debentures issued by the Commissioner, under this Act.

¹ For Statement of Objects and Reasons see Calcutta Gazette 1923, Pt. II, p. 115, and for details as to the manner in which the Bill was introduced see the Calcutta Legislative Council Proceedings, 1923, Vol. XI, No. 5, p. 36-37, and Vol. XII, p. 5.

² See Calcutta, Vol. II

(Sections 3, 4.)

24C. (1) For the purposes of any investment which the Commissioners are authorised to make by this Act, it shall be lawful for the Commissioners in meeting to reserve and set apart any debentures or securities to be issued by them on account of any loan to which the approval of the Local Government has been given :

Provided that in the case of any issue offered to the public, the intention so to reserve and set apart such debentures or securities shall have been notified as a condition of the issue of the loan.

(2) The issue of any such debentures or securities direct to and in the name of the Commissioners themselves shall not operate to extinguish or cancel such debentures or securities, but every debenture or security so issued shall be valid in all respects as if issued to, and in the name of, any other person.

(3) The purchase by the Commissioners or the transfer, assignment or endorsement to the trustees of the sinking fund or the Commissioners, of any debenture or security issued by the Commissioners, shall not operate to extinguish or cancel any such debenture or security, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to any other person."

Amendment of section 30.

3. In the proviso to section 30 of the said Act, for the words, letter and brackets "except clause (g) thereof" the following shall be substituted, namely :—

"except clauses (g) and (h) thereof."

Insertion of new section 30A.

4. After section 30 of the said Act, the following shall be inserted, namely :—

30A. The Commissioners may, with the approval of the Local Government,—

Power to Commissioners to establish a provident fund and to grant long service bonuses.

(i) establish a provident fund for the benefit of their officers and servants

of 1923.]

(Section 5.)

appointed in accordance with the provisions of this Act, and compel all or any of such officers and servants to contribute to, and make supplementary contributions to, such provident fund and make payments thereout in accordance with the rules of such fund; and

- (ii) make payments out of their general revenues of bonuses, based on the length of service of the officers and servants appointed in accordance with this Act, to such officers and servants or to the widows or dependent children of such of them as may die while still in the service of the Commissioners "

5. In section 31 of the said Act,—

Amendment of
section 31

(1) in sub-section (1)—

- (a) the word "and" at the end of clause (f) shall be omitted;
- (b) after clause (f) the following shall be inserted, namely:—

"(g) for prescribing the rates and the conditions under which contributions may be paid by the Commissioners and their officers and servants to the provident fund which may be established under section 30A, and for determining the conditions of payments from the fund and the conditions of payments under clause (ii) of section 30A of bonuses based on length of service; and "

- (c) the existing clause (g) shall be re-numbered as clause (h);

- (2) in sub-section (2) for the word, letter and brackets "clause (g)" the word, letter and brackets "clause (h)" shall be substituted;

(Sections 6, 7.)

(3) in sub-section (3) for the words, letter and brackets "or clause (g)" the following shall be substituted, namely :—

"and under clauses (g) and (h)."

Amendment of
section 71.

6. For sub-section (1) of section 71 of the said Act, the following shall be substituted, namely :—

"(1) The estimate as sanctioned by the Commissioners shall, not later than the first day of March next following, be submitted to the Local Government, who may, at any time prior to the first day of April next following, either disallow or modify such estimate, or any portion thereof, and return the same for amendment."

New
72A. section

7. After section 72 of the said Act, the following shall be inserted, namely :—

"72A. The Commissioners in meeting shall be at liberty, in any year, to expend, in addition to the sums sanctioned by the estimate for that year as approved by the Local Government,—

Excess expenditure by Commissioners.

(a) any sum or sums chargeable to revenue, the expenditure of which shall in their opinion be necessary and which could not reasonably have been anticipated at the time of the preparation of the estimate, if and when such sums are covered by their revenue earnings received up to the time of such expenditure ;

(b) any sum or sums on any object not included in or estimated for in the estimate, if and when such sums can be met from ascertained savings on the estimate as a whole :

Provided that in pursuance of the provisions of this clause—

(i) not more than fifty thousand rupees shall be expended on any one object, and

of 1923.]

(Sections 8, 9)

- (u) without the sanction of the Local Government, not more than one lakh and fifty thousand rupees shall be expended in any one year

The Commissioners shall submit annually to the Local Government a statement of all such expenditure "

8. For section 73 of the said Act, the following shall be substituted, namely — New section substituted for section 73

"73 Subject to the provisions of section 72A, no sum exceeding twenty thousand rupees shall except in cases of pressing emergency, be expended by, or on behalf of the Commissioners unless such sum is included in an estimate at the time in force which has been finally approved by the Local Government "

9. In section 74 of the said Act, for the words "five thousand rupees" the words "twenty thousand rupees" shall be substituted Amendment of section 74

BENGAL ACT No. VII OF 1923.
THE BENGAL AERIAL ROPEWAYS
ACT, 1923.

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BENGAL ACT No. VII OF 1923.
(THE BENGAL AERIAL ROPEWAYS
ACT, 1923).¹

[29th August, 1923]

An act to authorise, facilitate and regulate the construction and working of aerial ropeways in Bengal

WHEREAS it is expedient to authorise, facilitate and regulate the construction and working of aerial ropeways in Bengal,

Preamble

5 & 6, Geo
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Geo V, c
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And whereas the previous sanction of the Governor General has been obtained under section 80A, sub-section (3), of the Government of India Act, to the passing of this Act,

It is hereby enacted as follows —

CHAPTER I.

Preliminary

1. (1) This Act may be called the Bengal Aerial Ropeways Act, 1923,

Short title
local extent and
commencement

(2) It extends to the whole of Bengal, except the Hill-tracts of Chittagong, and

(3) It shall come into force on such date as the Local Government may, by notification in the *Calcutta Gazette*, direct

Provided that it shall come into operation in the Dujeeing district only on such date and subject to such exceptions and modifications as the Governor in Council may, by notification in the *Calcutta Gazette*, direct.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions

(1) "aerial ropeway" means an aerial ropeway (or any portion thereof) for the carriage of passengers, animals or goods, and includes all posts, ropes, carriers, stations, offices, warehouses, workshops, machinery and other works used for the purposes of, or in connection with, and all land appurtenant to, such aerial ropeway;

¹ For Statement of objects and reasons, see *Calcutta Gazette*, 1923, Pt. IV, p. 224 and for Proceedings in Council, see the Bengal Legislative Council Proceedings, 1923, Vol. XI, No. 3, pp. 17-18 and p. 377, and Vol. XII, pp. 11-24.

(Chapter I.—Preliminary.—Section 2.)

- (2) “carrier” means any vehicle or receptacle hung or suspended from, or hauled by, a rope and used for the carriage of passengers, animals or goods or for any other purpose in connection with the working of an aerial ropeway;
- (3) “Collector” means the chief officer in charge of the land-revenue administration of a district, and includes any officer specially appointed by the Local Government to discharge the functions of a Collector under this Act;
- (4) “Inspector” means an Inspector of aerial ropeways appointed under this Act;
- (5) “local authority” means a Municipal Committee, District Board, body of Port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund, and also includes a Local Board;
- (6) “order” means an order authorising the construction of an aerial ropeway under this Act;
- (7) “post” means a post, trestle, standard, strut, stay or other contrivance or part of a contrivance for carrying, suspending or supporting a rope;
- (8) “prescribed” means prescribed by rules made by the Local Government under section 42;
- (9) “promoter” means—
- (i) the Local Government,
 - (ii) a local authority,
 - (iii) any person,
 - (iv) any company incorporated under the Indian Companies Act, 1913,¹ or VII of 1913.
 - (v) any railway company as defined in the Indian Railways Act, 1890,² IX of 1890.

in whose favour an order has been made under section 7 or under section 28, or on whom the

¹ General Acts, Vol. VII.

² General Acts, Vol. IV.

of 1923.]

(Chapter II—Aerial Ropeways for Public Traffic.—
Procedure and Preliminary Investigations—
Sections 3, 4.)

rights and liabilities conferred and imposed on the promoter by this Act, and by rules and orders made under this Act as to the construction, maintenance and use of the aerial ropeway, have devolved or have been imposed by section 10 :

- (10) "rate" includes any fare, charge or other payment for the carriage of passengers, animals or goods on an aerial ropeway; and
- (11) "rope" includes any cable, wire, rail or way, whether flexible or rigid, for suspending, carrying or hauling a carrier, if any part of such cable, wire, rail or way is carried overhead and is suspended from, or supported on, posts.

CHAPTER II.

Aerial Ropeways for Public Traffic.

Procedure and Preliminary Investigations.

3. Every application by an intending promoter other than the Local Government for permission to undertake the necessary preliminary investigations in regard to a proposed aerial ropeway for the public carriage of passengers, animals or goods shall be submitted to the Local Government

Application
for concession

4. Every such application shall include—

Contents
of application

- (a) a description of the undertaking and of the route to be followed by the proposed aerial ropeway,
- (b) a description of the system of construction and management and of the advantages to the community to be expected from the ropeway,
- (c) an estimate of the cost of construction thereof;
- (d) statement of the estimated working expenses and profits in respect thereof;

(Chapter II.—*Procedure and Preliminary Investigations.—Orders authorising the Construction of Aerial Ropeways for Public Traffic.—Sections 5, 6.*)

- (e) a statement of the maximum and minimum rates which it is proposed to charge ;
- (f) such maps, plans, sections and drawings in connection therewith as the Local Government may require in order to form an idea of the proposal.

Preliminary investigations.

5. Subject to the provisions of this Act, and of section 1 of the Land Acquisition Act, 1894,¹ the Local Government may, at their discretion, accord sanction to the intending promoter to make such surveys as may be necessary, and require him to submit such detailed estimates, plans, sections and specifications and such further information as they may deem necessary for the full consideration of the proposal.

The intending promoter shall not be entitled to claim any compensation from Government for any expense incurred under this section in the event of his application being ultimately refused.

Orders authorising the Construction of Aerial Ropeways for Public Traffic.

Order authorising construction and contents of such order

6. (1) The Local Government may, on application made by any intending promoter, and after due consideration of the details supplied in accordance with section 5, publish in the *Calcutta Gazette* a draft of the proposed order authorising the construction by, or on behalf of, such promoter, subject to such restrictions and conditions as the Local Government may think proper, of an aerial ropeway within any specified area or along any specified route—

- (a) for the public carriage of passengers ;
- (b) for the public carriage of passengers, animals and goods ; or
- (c) for the public carriage of animals and goods.

(2) A notice shall be published with the draft order stating that any objection or suggestion which any person may desire to make with respect to the

of 1923.]

(Chapter II—Orders authorising the Construction of Aerial Ropeways for Public Traffic—Section 6)

proposed order, if submitted to the Local Government within such period, not being less than two months from the date of such publication, as may be specified in the notice, will be received and considered.

(3) The Local Government shall also cause public notice of the intention to make the order to be given at convenient places within the said area or along the said route and shall, so far as may be conveniently possible, cause a like notice to be served on every owner or occupier of land over which such route lies, and shall consider any objection or suggestion, with respect to the proposed order, which may be received from any person within the date specified in such notice and decide thereon.

(4) The draft of the proposed order may specify—

- (i) a time within which the capital required for the construction of the aerial ropeway shall be raised
- (ii) a time within which the construction shall be commenced,
- (iii) a time within which the construction shall be completed,
- (iv) the conditions under which a concession, guarantee or financial assistance may be given by the Local Government or a local authority to the promoter,
- (v) the rights of purchase by the Local Government or by a local authority;
- (vi) the conditions relating to the structural design, quality of materials, factors of safety, method of computing stresses, and other such technical details as may be considered necessary,
- (vii) the conditions relating to the construction of the ropeway over mining properties in accordance with rules made under section 12 and over roads and other public ways of communication except such railways and tramways as are referred to in clause (a) of item 5 of Part I of Schedule I to the Devolution Rules¹, and with the previous sanction of the Governor General in Council over such railways and tramways.

¹ The Bengal Legislative Code Manual 1923, p. 115

(Chapter II.—Orders authorising the Construction of Aerial Ropeways for Public Traffic.—Section 7.)

- (viii) the conditions under which the promoter may sell or transfer his rights to the Local Government or to a local authority, company or person ;
- (ix) the conditions under which the ropeway may be taken over by the Local Government to be worked by itself or by a local authority or by a company or person other than the promoter ;
- (x) the motive power to be used on the ropeway and the conditions (if any) on which such power may be used ;
- (xi) the minimum headway to be maintained under different parts of the rope ;
- (xii) the points under the rope at which bridges or guards shall be constructed and maintained ;
- (xiii) the amount of security (if any) to be deposited by the promoter in the event of his application being granted ;
- (xiv) the traffic which may be carried on the ropeway, the traffic which the promoter shall be bound to carry, and the traffic which he may refuse to carry ;
- (xv) the maximum and minimum rates that may be charged by the promoter and the circumstances in which and the manner in which these rates may be revised by the Local Government ; and
- (xvi) such other matters as the Local Government may deem necessary.

Final order

7. (1) If, after considering any objections or suggestions which may have been made in respect to the draft on or before the specified date, the Local Government are of opinion that the application should be granted with or without modifications, or subject or not to any restrictions or conditions, they shall make an order accordingly.

(2) Every order authorising the construction of an aerial ropeway for the public carriage of passengers, animals or goods shall be published in the *Calcutta Gazette*, and such publication shall be conclusive proof that the order has been made as required by this section.

of 1923.]

(Chapter II.—Orders authorising the Construction of Aerial Ropeways for Public Traffic.— Inspection of Aerial Ropeways for Public Traffic—Sections 8-10.)

8. If a promoter authorised by an order to construct an aerial ropeway for the public carriage of passengers, animals or goods does not, within the time specified in the order,—

Cessation
powers given
an order

- (a) succeed in raising the full amount of capital required for the completion of the ropeway, or
- (b) substantially commence the construction of the ropeway, or
- (c) complete the construction thereof,

the powers given to the promoter by such order shall, unless the Local Government prolongs the time so specified, cease to be exercised.

9. When the construction of an aerial ropeway has been authorised under this Act, for the public carriage of animals and goods only, the Local Government may, on application made by the promoter, sanction the opening of such ropeway for the public carriage of passengers also.

Opening
aerial ropeway
passenger traffic

Inspection of Aerial Ropeways for Public Traffic.

10. (1) No aerial ropeway intended for the public carriage of passengers, animals or goods shall be opened for any kind of traffic until the Local Government or an Inspector empowered by the Local Government in this behalf has, by an order, sanctioned the opening thereof for that purpose. The sanction of the Local Government under this section shall not be given until an Inspector has, after inspection of the ropeway, reported in writing to the Local Government—

Inspection
aerial ropeway
before opening

- (a) that he has made a careful inspection of the ropeway and appurtenances;
- (b) that the moving and fixed dimensions and other conditions prescribed under sub-section (f) of section 6 and sub-section (1) of section 7 have been complied with;
- (c) that the ropeway is sufficiently equipped for the traffic for which it is intended;

(Chapter. II—Inspection of Aerial Ropeways for Public Traffic.—Sections 11-13.)

(d) that the by-laws and rules prescribed by sections 27 and 42 have been duly made, approved and published ; and

(e) that the ropeway is, in his opinion, fit for public traffic and can be used without danger either to the persons, animals or goods carried thereon, or to the persons employed thereon, or to the general public.

(2) The provisions of sub-section (1) shall extend to the opening of additional sections of the ropeway, and to deviation lines and any alteration or re-construction materially affecting the structural character of any work to which the provisions of sub-section (1) apply or are extended by this sub-section.

Appointment
and duties of
Inspectors.

11. (1) The Local Government may appoint such persons as they deem fit to be Inspectors of aerial ropeways for the public carriage of passengers, animals or goods, and may fix the fees to be charged to promoters for the performance by Inspectors of their duties under this Act.

(2) It shall be the duty of any such Inspector from time to time to inspect such ropeways, and to determine whether they are maintained in a fit condition and worked with due regard to the convenience and safety of the persons using them and of the general public, and consistently with the provisions of this Act.

Powers
of
Inspectors.

12. An Inspector shall, for the purpose of any of the duties which he is authorised or required to perform under this Act, be deemed to be a public servant within the meaning of the Indian Penal Code¹, and shall, for that purpose, have such powers as may be prescribed.

Act
1860.

Facilities to be
afforded
to
Inspectors

13. The promoter, and his servants and agents, shall afford to an Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act, or by rules made thereunder.

of 1923.]

(Chapter II.—Construction and Maintenance of
Aerial Ropeways for Public Traffic—
Section 14)

*Construction and Maintenance of Aerial
Ropeways for Public Traffic*

14. (1) Subject to the provisions of, and to the rules made under, this Act, and, in the case of immovable property not belonging to the promoter, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies, a promoter of an aerial ropeway for public traffic may—

Authority
promoter
execute all neces-
sary works

- (a) make such survey as he thinks necessary,
- (b) place and maintain posts in or upon any immovable property;
- (c) suspend and maintain a rope over, along or across any immovable property,
- (d) make such bridges, culverts, drains, embankments and roads as may be necessary,
- (e) erect and construct such machinery, offices, stations, warehouses and other buildings, works and conveniences as may be necessary, and
- (f) do all other acts necessary for constructing, maintaining, altering, repairing and using the aerial ropeway.

Provided that a promoter may take any action under clause (b) or clause (e) of this sub-section, notwithstanding the objection of the owner or occupier of the property affected thereby if the Collector, after giving such owner and occupier by notice in writing an opportunity of being heard, by an order in writing, permits such action.

(2) When making an order under the proviso to sub-section (1), the Collector shall fix the amount of compensation or of annual rent or of both which should, in his opinion, be paid by the promoter to the owner of the property affected thereby, or, in the case of immovable property, to the owner or occupier thereof.

Chapter II.—Construction and Maintenance of Aerial Ropeways for Public Traffic.—Sections (15-17.)

15. (1) Subject to the rules made under this Act a promoter may, at any time, for the purpose of examining, repairing or altering an aerial ropeway for public traffic or of preventing any accident, enter upon any immovable property adjoining such ropeway, and may do all such works as may be necessary for such purpose.

(2) In the exercise of the powers conferred by sub-section (1), the promoter shall cause as little damage as possible, and compensation shall be paid by him for any damage so caused; and, in a case of dispute as to the amount of such compensation, or the person to whom it shall be paid, the matter shall be referred to the decision of the Collector.

16. (1) Where any tree standing or lying near an aerial ropeway for public traffic, or where any structure or other object which has been placed or has fallen near any such ropeway subsequently to the issue of an order under section 7 in regard to such ropeway, interrupts or interferes with, or is likely to interrupt or interfere with, the construction, maintenance, alteration or use of the ropeway, the Collector may, on the application of the promoter, cause the tree, structure or object to be removed or otherwise dealt with as he thinks fit.

(2) When disposing of an application under sub-section (1), the Collector shall, in the case of any tree in existence before the construction of the aerial ropeway, award to the person interested in the tree such compensation, if any, as he thinks reasonable, and the Collector may recover the same from the promoter in the same manner as an arrear of land revenue.

Explanation.—For the purposes of this section, the expression “tree” shall be deemed to include any shrub, hedge, jungle-growth or other plant.

17. No suit shall lie, in respect of any matter referred to in the proviso to sub-section (1) of section 41, sub-section (2) of section 14, section 15 or sub-section (1) of section 16, but every order made by a Collector under any of those sections, and every award made by him under sub-section (2) of section 16, shall be subject to revision by the Local Government except in the case of an award of compensation made

Temporary entry upon land for repairing or preventing accident.

Removal of trees, structures, etc.

Orders of Collector subject to revision by Local Government.

of 1923.]

(Chapter II—Working of Aerial Ropeways for Public Traffic—Sections 18-20.)

by the Collector on account of action taken under clause (c) of sub-section (1) of section 14, which award shall be subject to revision by the District Judge.

Working of Aerial Ropeways for Public Traffic.

18. The promoter of an aerial ropeway for public traffic shall, for the purposes of working an aerial ropeway, and subject to such maximum and minimum rates as may be prescribed, have power from time to time to fix the rates for the carriage of passengers, animals or goods on the aerial ropeway Promoter may fix rates

19. No promoter shall, for the purposes of working an aerial ropeway for public traffic, make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person or any particular description of traffic in any respect whatsoever, or subject any particular person or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever Duty of promoter to work aerial ropeway without partiality

20. When any of the following accidents occur in the course of working an aerial ropeway for public traffic, namely — Listing of accidents

- (a) any accident attended with loss of human life or with grievous hurt as defined in the Indian Penal Code,¹ or with serious injury to property;
- (b) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property;
- (c) any accident of any other description which the Local Government may specify in this behalf in the rules made under this Act;

the promoter shall, without unnecessary delay, send notice of the accident to the Local Government and to the Inspector of the aerial ropeway;

and the promoter's servant in charge of the station on the aerial ropeway nearest to the place at which

(Chapter II.—Working of Aerial Ropeways for Public Traffic.—Discontinuance of Aerial Ropeways for Public Traffic.—Sections 21, 22.)

the accident occurred or, where there is no station, the promoter's servant in charge of the section of the aerial ropeway on which the accident occurred shall, with the least possible delay, give notice of the accident to the Magistrate of the district in which the accident occurred and to the officer in charge of the police-station within the local limits of which it occurred, or to such other Magistrate and police-officer as the Local Government may appoint in this behalf.

Power to close and re-open aerial ropeway.

21. (1) If, after inspecting any aerial ropeway opened to public traffic, an Inspector is of opinion that the ropeway or any specified part thereof cannot be used without danger to the public, or is no longer in a fit state for the carriage of any specified class of traffic, he shall state that opinion, together with the grounds therefor, to the Local Government ;

and the Local Government, after such further inquiry, if any, as they may think fit, may thereupon order that, for reasons to be set forth in the order, the aerial ropeway, or the part thereof so specified, be closed to all traffic or to any specified class of traffic :

Provided that, in any case of extreme urgency, the Inspector may order the suspension of the working of the ropeway or any part thereof which he considers necessary, pending the orders of the Local Government on the case.

(2) When, under sub-section (1), an aerial ropeway or any part thereof has been closed to any traffic, it shall not be re-opened to such traffic until it has been inspected, and its re-opening sanctioned, in the prescribed manner.

Discontinuance of Aerial Ropeways for Public Traffic.

Cessation of powers of promoter on discontinuance of aerial ropeway.

22. If, at any time after the opening of an aerial ropeway for public traffic, it is proved to the satisfaction of the Local Government that the promoter has, for three months, discontinued the working of the ropeway or of any part thereof, without a reason sufficient, in the opinion of the Local Government, to warrant such discontinuance, the Local Government, if they

of 1923.]

(Chapter II.—Discontinuance of Aerial Ropeways for Public Traffic—Purchase of Aerial Ropeways for Public Traffic—Sections 23, 24)

think fit, may declare that the powers of the promoter in respect of such aerial ropeway or part thereof shall be at an end, and thereupon the said powers shall cease and determine

23. (1) When a declaration has been made under section 22, in respect of any aerial ropeway or of any part thereof, an officer appointed in that behalf by the Local Government may, at any time after the expiration of two months from the date determined as aforesaid, remove such aerial ropeway or part thereof, as the case may be,

lower of removal of aerial ropeway or cessation of promoter's powers

and the promoter shall pay to the officer so appointed such costs of removal as shall be certified by that officer to have been incurred by him

(2) If the promoter fails to pay the amount of costs so certified within one month after the delivery to him of the certificate or of a copy thereof, such officer may, without any previous notice to the promoter and without prejudice to any other remedy which he may have for the recovery of the said amount sell and dispose of the materials of the aerial ropeway or part thereof so removed,

and may, out of the proceeds of the sale, pay and reimburse himself the amount of costs certified as aforesaid and of the costs of the sale;

and shall pay over the residue (if any) of such proceeds to the promoter

Purchase of Aerial Ropeways for Public Traffic.

24. (1) When an order under section 7 has been made in favour of a promoter of an aerial ropeway for public traffic, not being the Local Government, or a local authority, the Local Government, or a local authority specified in the order published under section 7, shall, on the expiration of such period, not exceeding fifty years, and of every such subsequent period, not exceeding twenty years, as shall be specified in such order, have the option of purchasing the undertaking, and if the Local Government, or the local authority with the previous sanction of the Local Government, elect to purchase, the promoter shall sell the undertaking to

lower of Local Government and local authorities to purchase aerial ropeways for public traffic.

(Chapter II.—Purchase of Aerial Ropeways for Public Traffic.—Section 24.)

the Local Government or to the local authority as the case may be, on payment of the value of all lands, buildings, works, materials, plant and apparatus of the promoter, suitable to, and used by him for the purposes of, the undertaking, such value to be in case of difference or dispute determined by arbitration :

Provided that the value of such lands, buildings, works, materials, plant and apparatus shall be deemed to be their fair market value at the time of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials, plant and apparatus, and to the state of repair thereof, and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking :

Provided also that there shall be added to such value, as aforesaid, such percentage, if any, not exceeding twenty *per cent.* of that value, as may be specified in the order passed under section 7, on account of compulsory purchase.

(2) Where a purchase has been effected under sub-section (1)—

(a) the undertaking shall vest in the purchasers free from any debts, mortgages or similar obligations of the promoter or attaching to the undertaking :

Provided that any such debts, mortgages or similar obligations shall attach to the purchase-money in substitution for the undertaking; and

(b) save as aforesaid, the order published under section 7 shall remain in full force, and the purchaser shall be deemed to be the promoter :

Provided that where the Local Government elects to purchase, the order under section 7 shall, after purchase, in so far as the Local Government is concerned, cease to have any further operation.

of 1923.]

(Chapter II—Purchase of Aerial Ropeways for Public Traffic—Inability or Insolvency of Promoter—Sections 25, 26)

(3) Not less than two years' notice in writing of any election to purchase under this section shall be served upon the promoter by the Local Government or the local authority, as the case may be

(4) Notwithstanding anything hereinbefore contained, a local authority may, with the previous sanction of the Local Government, waive its option to purchase, and enter into an agreement with the promoter for the working by him of the undertaking until the expiration of the next subsequent period referred to in sub-section (1) upon such terms and conditions as may be stated in the agreement

25. Where, on the expiration of any of the periods referred to in section 24, neither the Local Government nor a local authority purchases the undertaking and the order published under section 7 is, on the application or with the consent of the promoter revoked, the promoter shall have the option of disposing of all funds, buildings, works, materials, plant and apparatus belonging to the undertaking in such manner as he may think fit

Lower to promoter to sell when option to purchase not exercised and order revoked by consent

Inability or Insolvency of Promoter

26. (1) If, at any time after the opening of an aerial ropeway for public traffic, it appears to the Local Government that the promoter is insolvent or is unable to maintain the ropeway, or to work the same with advantage to the public, or at all, the Local Government may declare that the powers of the promoter, in respect of such aerial ropeway, shall, at the expiration of six months from the date of such declaration, be at an end, and thereupon the said powers shall, at the expiration of that period, cease and determine

Proceedings in case of inability or insolvency of promoter

(2) At any time after the expiration of the said six months, an officer appointed by the Local Government in that behalf, may, notwithstanding anything contained in the Provincial Insolvency Act, 1920,¹ remove the aerial ropeway in the same manner and subject to the same provisions as to the payment

¹ General Act, No. 1, 1920

(Chapter II.—By-laws.—Section 27.)

of costs and to the same remedy for the recovery thereof, in every respect, as in cases of removal under section 23.

By-laws.

Power of
promoter to make
by-laws.

27. (1) A promoter of an aerial ropeway for public traffic shall, subject to the provisions of sub-section (3), make by-laws—

- (a) for regulating the rate of speed at which carriers are to be moved or propelled;
- (b) for declaring what shall be deemed to be dangerous or offensive goods, and for regulating the carriage of such goods;
- (c) for regulating the maximum number of passengers and animals, and the maximum weight of goods, to be carried in each carrier;
- (d) for regulating the use of steam-power, or any other mechanical power or electrical power, on the aerial ropeway;
- (e) for regulating the conduct of the promoter's servants;
- (f) for regulating the terms and conditions on which the promoter will warehouse or retain goods at any station on behalf of the consignee or owner of such goods; and
- (g) generally for regulating the travelling upon, and the use, working and management of, the aerial ropeway.

(2) Such by-laws may provide that any person who contravenes the provisions of any of them shall be liable to fine which may extend to any sum not exceeding fifty rupees, and that, in the case of a breach of a by-law made under clause (e) of sub-section (1), the promoter's servant responsible for the same shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the promoter from his pay.

(3) A by-law made under this section shall not take effect until it has been confirmed by the Local Government and published in the *Calcutta Gazette*:

Provided that no such by-law shall be so confirmed until it has been previously published by the promoter in such manner as may be prescribed.

of 1923]

(Chapter III—Private Aerial Ropeways for certain purposes—Sections 28, 29)

CHAPTER III.

Private Aerial Ropeways for certain purposes

28. (1) Where the Local Government are satisfied that the construction, extension, working or management of an aerial ropeway for private traffic is likely to prove useful to the public by reason of its facilitating the transport of commodities in general use or is required for the conservation or service of undertakings supplying those commodities, and where the intending promoter of such aerial ropeway is desirous of obtaining any land for the purpose of such construction, extension, working or management, the Local Government may, on the application of such promoter, acquire on his behalf such land under the provisions of Part VII of the Land Acquisition Act, 1894,¹ or procure the temporary occupation of the same under the provisions of Part VI of that Act, whether the said intending promoter is or is not a company as defined in that Act

Application for acquisition of land in case of certain private aerial ropeways

(2) The Local Government shall by notification in the *Calcutta Gazette* declare the commodities which shall be deemed to be commodities in general use for the purposes of sub-section (1)

29. (1) No order shall be made by the Local Government under sub-section (1) of section 28 until an inquiry has been held as hereinafter provided and the intending promoter has entered into an agreement with the Government in respect of the matters mentioned in sub-section (4).

Agreement

(2) Such inquiry shall be held by such officer and at such time and place as the Local Government shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in the same manner as is provided by the Code of Civil Procedure² in the case of a Civil Court.

(4) Such officer shall report to the Local Government the result of the inquiry, and if the Local

¹ General Ac. & Vol. IV
² General Ac. & Vol. VI

(Chapter III.—Private Aerial Ropeways for certain purposes.—Chapter IV.—Offences, Penalties and Arrest.—Sections 30, 31.)

Government are satisfied that the ropeway is or is likely to be useful to the public, they shall, subject to any rules made under section 42, require the intending promoter to enter into an agreement with the Government, providing to the satisfaction of the Local Government for the following matters, namely :—

(a) the terms on which the ropeway shall be held by the promoter ;

(b) the time within which, and the conditions on which, the ropeway shall be constructed, maintained and used.

(5) Every such agreement shall, as soon as may be after its execution, be published in the *Calcutta Gazette*.

Temporary
occupation of
land in case of
private aerial
ropeway.

30. If land is to be occupied temporarily in accordance with the provisions of sub-section (1) of section 28 on behalf of the promoter of an aerial ropeway for private traffic, and if the Local Government on the application of the promoter so direct, then the provisions of Part VI of the Land Acquisition Act, 1894,¹ shall apply to such occupation, subject to the provisions that, notwithstanding anything contained in section 35 of the Land Acquisition Act, 1894, the occupation and use by the promoter of the land occupied shall continue for such period, not exceeding ten years, as the Local Government may fix, and that the compensation payable to the persons interested in such land shall be fixed with due regard to any additional loss or inconvenience caused to them by reason of such period of occupation, including loss caused by the interruption of the getting of minerals by reason of such occupation.

CHAPTER IV.

Offences, Penalties and Arrest.

Failure
promoter
comply
Act.

of
to
with

31. If a promoter of an aerial ropeway for public traffic—

(a) constructs or maintains an aerial ropeway otherwise than in accordance with the terms of an order made under section 7, or

of 1923.]

Chapter IV —Offences, Penalties and Arrest.—
Section 32)

- (b) opens an aerial ropeway or permits it to be opened in contravention of any of the provisions of section 10, or
- (c) fails to comply with the provisions of section 13, or
- (d) fails to pay within a reasonable time any compensation awarded by the Collector or by the Local Government under sections 14, 15, 16 or 17, or
- (e) contravenes any of the provisions of section 19, or
- (f) fails to send notice of any accident as required by section 20, or
- (g) fails to close an aerial ropeway in accordance with an order passed under sub-section (1) of section 21, or re-opens any aerial ropeway in contravention of sub-section (2) of that section, or
- (h) continues to exercise the powers of a promoter in respect of any aerial ropeway, in contravention of the provisions of section 22 or section 26, or
- (i) fails to comply with the provisions of section 27 or section 36, or
- (j) contravenes any of the provisions of section 37, or
- (k) contravenes the provisions of any rule made under section 42,

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act, or of any other remedy which may be obtained against him) be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing offence, to a further fine which may extend in the case of an offence specified in sub-clause (d), (e), (f), (i), (j) or (k) to fifty rupees, and in the case of an offence specified in sub-clause (a), (b), (c), (g) or (h) to one thousand rupees for every day after the first during which the offence continues to be committed.

32. If any person without lawful excuse, the burden of proving which shall be upon him, wilfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing, maintaining, altering, repairing or

Unlawfully
obstructing
promoter
exercise of his
powers

(Chapter IV.—Offences, Penalties and Arrest.—
Sections 33, 35.)

working an aerial ropeway, or injures or destroys any mark made for the purpose of setting out the line or route of such ropeway, he shall be punished with fine which may extend to two hundred rupees.

Unlawfully
interfering with
aerial ropeway.

33. If any person without lawful excuse, the burden of proving which shall be upon him, wilfully does any of the following things, namely:—

- (a) interferes with, removes or alters any part of an aerial ropeway or of the works connected therewith,
- (b) does anything in such a manner as to obstruct any carrier travelling on an aerial ropeway,
- (c) attempts to do, or abets, within the meaning of the Indian Penal Code,¹ the doing of anything mentioned in clause (a) or clause (b),

he shall (without prejudice to any other remedy which may be obtained against him in a Court of Civil Judicature) be punishable with fine which may extend to two hundred rupees.

Maliciously
doing, abetting or
attempting to do,
acts endangering
safety of persons
travelling
or being upon
aerial ropeway.

34. If any person does anything mentioned in clauses (a), (b) or (c) of section 33 or does, attempts to do, or abets, within the meaning of the Indian Penal Code, the doing of any other act or thing in relation to an aerial ropeway with intent or with knowledge that he is likely to endanger the safety of any person travelling or being upon the aerial ropeway, he shall be punished with imprisonment for a term which may extend to fourteen years.

Arrest for
offences against
certain sections.

35. (1) If any person commits any offence under section 32 which obstructs the working of an aerial ropeway for public traffic, or commits any offence punishable with imprisonment under section 34, he may be arrested without warrant or other written authority by any servant of the promoter, or by any police-officer or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a Magistrate having authority to try him or to commit him for trial.

of 1923.]

(Chapter V—*Supplementary Provisions—
Sections 36-40*)

CHAPTER V.

Supplementary Provisions.

36. A promoter of an aerial ropeway for public traffic shall, in respect of such ropeway, submit to the Local Government returns of capital, receipts and traffic at such intervals and in such forms as may be prescribed

Returns

37. No promoter of an aerial ropeway shall, in the course of the construction, repair, working or management of such ropeway, cause any permanent injury to any public road, railway, tramway or waterway, or obstruct or interfere with, otherwise than temporarily, as may be necessary, the traffic on any public road, railway, tramway or waterway

Protection of
roads, railway
tramways and
waterways

38. The Local Government may, if they think fit, on the application of any promoter of an aerial ropeway for public traffic desirous of obtaining any land for the purpose of constructing, working or managing such ropeway, direct that he may, subject to the provisions of this Act, acquire such land under the provisions of the Land Acquisition Act, 1894¹, in the same manner and on the same conditions as it might be acquired if the promoter were a company

Acquisition of
land by
promoter

1 of 1894

39. No person shall be entitled to a refund of an overcharge in respect of animals or goods carried by an aerial ropeway for public traffic or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the promoter within six months from the date of the delivery of the animals or goods for carriage by the ropeway.

Limitation of
claims for damage
to animals or
goods

40. (1) Sections 1, 2, 11, 12, 13, 14, 15, 16, 20 and 21, clauses (c), (f), (g), (j) and (k) of section 31, sections 31, 35 and 37, and sub-sections (1) and (3) and clauses (b), (c), (d), (e), (g), (h), (m), (o), (p) and (q) of sub-section (2) of section 12 shall also apply to the private

Application of
Act to certain
private aera
ropeways

(Chapter V.—Supplementary Provisions.—Section
41.)

aerial ropeways constructed for the purposes referred to in section 28, whether constructed before or after the commencement of this Act:

Provided that, in the application of section 16 to any such aerial ropeway, for the words "the issue of an order under section 7" the words "the opening of the ropeway to traffic or the issue of a notification for the acquisition of, or an order for the temporary occupation of, land in accordance with the provisions of sub-section (1) of section 28, whichever is earlier," shall be deemed to be substituted.

(2) Clauses (a), (c) and (e) of sub-section (1) and sub-section (2) of section 10 shall also apply to all such private aerial ropeways constructed after the commencement of this Act, and clause (b) of section 31 shall apply to such ropeways to the extent that section 10 applies thereto.

(3) The Local Government, on the application of the promoter or otherwise, may declare that the provisions of section 28 and of sub-section (1) of this section shall apply to any private aerial ropeway or class of private aerial ropeways for private traffic.

41. (1) The Local Government shall, by notification in the *Calcutta Gazette*, constitute an Advisory Board for aerial ropeways.

(2) Such Board shall consist of a Chairman to be appointed by the Local Government (who shall be a Chief Engineer to the Local Government) and two persons to be appointed by the Local Government as expert members.

(3) When any person is aggrieved by an order of the Local Government under section 7 or under section 21, such person, on payment of the prescribed fees, may, within thirty days of the said order, apply to the Local Government for revision of the same, and the Local Government shall take the advice of the Advisory Board in the prescribed manner and shall consider such advice and pass such orders in the matter as to the Local Government shall seem just and proper.

(4) With a view to enabling the Board to tender their advice under sub-section (3) the Board, with the

Power of Local
Government to
constitute an
Advisory Board
for aerial rope-
ways

of 1923.]

(Chapter V—Supplementary Provisions—
Section 42)

consent of the Local Government and on payment of such further fees as may be prescribed, may make such further inquiry into the matter as the Board may consider to be necessary

(5) The Local Government may, by general or special order,—

- (a) define the further duties of, and regulate the procedure of, the Advisory Board,
- (b) determine the tenure of office of the members of the Board, and
- (c) give directions as to the payment of fees to, and the travelling expenses incurred by, any member of such Board in the performance of his duty

42. (1) The Local Government may, after previous publication, make rules to carry out the purposes of this Act

Lower of Local
Government to
make rules

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe—

- (a) the conditions under which licenses for the construction of aerial ropeways over mining properties shall be granted, including conditions as to the assessment and payment of compensation for loss caused by the interruption of the getting of minerals by reason of such construction and conditions as to the removal of any portion of the ropeway to another alignment, to be fixed by arbitration if necessary, if at any time in the opinion of the Local Government the ropeway interferes with the raising of minerals,
- (b) the powers of an Inspector appointed under section 11,
- (c) the conditions under which and the manner in which the powers conferred on promoters by sub-section (1) of section 11 and sub-section (1) of section 15 may be exercised,

[Ben. Act VII of 1923.]

(Chapter V.—*Supplementary Provisions.*—
Section 42.)

- (d) the accidents of which notice shall be given to the Local Government and to the Inspector under clause (c) of section 20;
- (e) the duties of the promoter's servants, police-officers, and Magistrates on the occurrence of an accident;
- (f) the maximum and minimum rates which a promoter may fix under section 18;
- (g) the standard dimensions and specifications with which the aerial ropeway is to conform;
- (h) the procedure for the disposal of applications under sub-section (2) of section 21 to re-open an aerial ropeway or part thereof and the conditions under which such ropeway may be re-opened;
- (i) the manner of previous publication of by-laws made under section 27;
- (j) the intervals at which a promoter shall submit returns under section 36, and the forms in which such returns shall be submitted;
- (k) the preparation, submission and auditing of the accounts of the promoter;
- (l) the method of arbitration for the settlement of disputes;
- (m) the manner in which notices under this Act shall be served;
- (n) the manner in which, and the conditions under which, the through booking of goods may be permitted between an aerial ropeway and a railway, tramway or another aerial ropeway;
- (o) the safe and efficient working of aerial ropeways;
- (p) the fees to be charged to promoters and other persons in respect of licenses, applications, inquiries, inspection, and services rendered under this Act; and
- (q) the procedure for filing, hearing and disposing of applications for revision under this Act, and the procedure for taking the advice of the Advisory Board.

(3) All rules made under this section shall be published in the *Calcutta Gazette*.

BENGAL ACT No. VIII OF 1923.

[THE BENGAL VILLAGE-CHAUKIDARI
(AMENDMENT) ACT, 1923.]¹

[15th August 1923.]

*An Act further to amend the Village-chaukidari
Act, 1870*

en Act VI
1870

WHEREAS it is expedient further to amend the Village-chaukidari Act, 1870,² in the manner hereinafter appearing

It is hereby enacted as follows —

1. This Act may be called the Bengal Village-chaukidari (Amendment) Act, 1923

Short title

2. For section 11 of the Village-chaukidari Act, 1870, the following shall be substituted, namely

New section
substituted for
section 11 of
Bengal Act VI of
1870

“ 11. The *panchayat* of a village shall determine the number of chaukidars to be appointed for that village, subject to the approval of the District Magistrate

Notwithstanding anything contained in this section, the number of chaukidars employed for any village on the day on which the Bengal Village-chaukidari (Amendment) Act, 1923, comes into operation, shall continue to be the same until altered under the provisions of this section ”

¹ For Statement of Objects and Reasons see *Calcutta Gazette*, 1923, Part IV, 122, and for Proceedings in Council see the Bengal Legislative Council Proceedings, 1923, Vol. VI No. 1, p. 302, 363, and Vol. VII, p. 87, 101

² Bengal Code, Vol. II



BENGAL ACT No. IX of 1923.

[THE CALCUTTA IMPROVEMENT
(AMENDMENT) ACT, 1923.]¹

[19th September, 1923.]

*An Act further to amend the Calcutta Improvement
Act, 1911.*

WHEREAS it is expedient further to amend the Calcutta Improvement Act, 1911, in the manner hereinafter appearing;

And whereas the previous sanction of the Governor-General has been obtained, under section 80A, sub-section (3), of the Government of India Act, to the passing of this Act:

It is hereby enacted as follows.—

1. This Act may be called the Calcutta Improvement (Amendment) Act, 1923.

Short title

2. For section 54 of the Calcutta Improvement Act, 1911 (hereinafter referred to as the said Act), the following shall be substituted, namely:—

New section substituted for section 54 of Bengal Act V of 1911

Transfer to Board, for purposes of improvement scheme, of building or land vested in the Corporation or in the Commissioners of a Municipality

“54. (1) Whenever any building, or any street, square, or other land, or any part thereof, which—

(a) is situated in the Calcutta Municipality and is vested in the Corporation, or

(b) is situated in any part of any Municipality constituted under the Bengal Municipal Act, 1884, in which this section is for the time being in force, and is vested in the Commissioners of that Municipality,

is within the area of any improvement scheme and is required for the purposes of such scheme, the Board shall give notice accordingly to the Chairman of the Corporation or the Chairman of such Municipality, as the case may be, and such building, street, square, other land or part, shall thereupon vest in the Board subject in the case of any building or any land, not being a street or square, to the payment of compensation, if any, to the Corporation or to such Commissioners, as the case may be, under sub-section (3).

¹ For a statement of Objects and Reasons, see Calcutta Gazette, 1923, Part IV, p. 231, and the Proceedings of the Council, see the Bengal Legislative Council Minutes, 1923, Vol. XL, Nos. 1-19, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 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800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

² Bengal Code, Vol. 144

Bengal Act V
of 1911

5 & 6
Geo V, c 61
6 &
Geo V, c 37
9 &
Geo V, c 101

Bengal Act III
of 1884

(Section 2.)

(2) Where any land vests in the Board under the provisions of sub-section (1) and the Board make a declaration to the Corporation that such land will be retained by the Board only until it reverts in the Corporation as part of a street or an open space, under a declaration made by the Corporation under sub-section (1) of section 65 or a resolution passed by the Board under sub-section (2) of section 65, as the case may be, no compensation shall be payable by the Board to the Corporation in respect of that land.

(3) Where any land or building vests in the Board under sub-section (1) and no declaration is made by the Board that the land will be so retained, the Board shall pay to the Corporation, or to the Commissioners, as the case may be, as compensation for the loss resulting from the transfer of such land or building to the Board, a sum equal to the market value of the said land or building at the time when the general declaration in respect of other lands included in the scheme is made under the provisions of section 6 of the Land Acquisition Act, 1894, as amended by this Act, and where any building, situated on land in respect of which a declaration has been made by the Board under sub-section (2), is vested in the Board under sub-section (1), like compensation shall be payable in respect of such building by the Board.

I of 1894

(4) If, in any case where the Board have made a declaration to the Corporation in respect of any land under sub-section (2), the Board retain or dispose of the land contrary to the terms of the declaration, so that the land does not revert in the Corporation as contemplated under such declaration, like compensation shall be payable by the Board to the Corporation in respect of such land for the loss resulting from the non-transfer of such land to the Corporation, such compensation not to be less than the market value which would have been payable for the said land under the provisions of sub-section (3).

(5) If any question of dispute arises—

- (a) as to whether compensation is payable under sub-section (3) or sub-section (4), or
- (b) as to the sufficiency of the compensation paid or proposed to be paid under sub-section (3) or sub-section (4), or

THE CALCUTTA IMPROVEMENT (AMENDMENT) ACT, 1923,
1923.

of 1923.]

(Sections 3, 4)

(c) as to whether any building or street, or square or other land, or any part thereof is required for the purposes of the scheme, the matter shall be referred to the Local Government, whose decision shall be final.

3. (1) In clause (ii) of sub-section (4) and in sub-section (8) of section 78 of the said Act, for the words "four *per cent*" the words "six *per cent*" shall be substituted, and

Amendment of
section 78

(2) to that section the following shall be added, namely —

"(10) Notwithstanding anything contained in clause (ii) of sub-section (4) or in sub-section (8) the rate of interest payable, under the provisions of that clause or that sub-section, as the case may be, shall be, or continue to be, four *per cent per annum* in cases where the sum, in consideration of which the acquisition of the land has been abandoned has been fixed under sub-section (3) before the date of the commencement of the Calcutta Improvement (Amendment) Act, 1923, and the agreement in respect of the payment of the same is executed before, on or within two months after that date."

4. In section 79 of the said Act for the words "four *per cent*" the words "six *per cent*." shall be substituted.

Amendment of
section 79

BENGAL ACT No. X OF 1923.

[THE BENGAL TENANCY (UTBANDI
AMENDMENT) ACT, 1923.]¹

[19th September, 1923.]

An Act to supplement and amend the Bengal Tenancy Act, 1885,² in order to provide means whereby a uniform annual money rent may be determined for utbandi lands and to make further provision in respect of such lands

WHEREAS it is expedient to supplement and amend the Bengal Tenancy Act, 1885, in order to provide means whereby a uniform annual money rent may be determined for land held under the custom of *utbandi* or under any form of tenancy locally known as *utbandi*, and to make such other provisions as hereinafter appear in respect of lands for which a uniform annual money rent has been so determined,

Preamble

And whereas the previous sanction of the Governor General under sub-section (3) of section 80A of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows. —

1. (1) This Act may be called the Bengal Tenancy (Utbandi Amendment) Act, 1923

Short title and extent

(2) It extends in the first instance only to the districts of Nadia, Murshidabad and Jessore, but the Local Government may, by notification in the *Caleutta Gazette*, extend it to any other district or part of a district in Bengal.

2. After section 180 of the Bengal Tenancy Act, 1885, the following sections shall be inserted, namely:—

Insertion of new sections 180A, 180B and 180C in Act VIII of 1885.

" 180A. (1) Notwithstanding anything contained

in section 180, when a riyat who is or who may be but for the operation of section 180 in respect of land held under the custom of *utbandi* would have been a settled riyat of the village, holds or has held under the custom of *utbandi*, or under

fixing of uniform annual money rent in respect of *utbandi* lands.

¹ For a statement of Objects and Reasons, see *L. C. S. P. 1923, Part IV, 1923* and *July*; and for a discussion on the Bill, see the *Legislative Council Proceedings 1923, Vol. XIII, 1, 67-74, and Vol. XIII, 1, 112-115*

² Bengal Code, Vol. I

[Ben. Act X

(Section 2.)

any form of tenancy locally known as *utbandi* land (hereinafter referred to as *utbandi* land), either the landlord or the raiyat may apply to have a uniform annual money rent determined for the land.

(2) The application shall include at the discretion of the applicant either—

(a) all *utbandi* lands held in the same village by the same raiyat under the same landlord in which the raiyat has acquired a right of occupancy whether under the provisions of section 180 or otherwise, or

(b) all the lands held in the same village under the same landlord by the raiyat which the raiyat, or any deceased person whose heir he is, has cultivated as *utbandi* land at any time during the preceding period of six years if he or the said deceased person is the last person to have cultivated the land and has not or had not acquired occupancy rights therein, or

(c) both.

(3) Subject to the provisions of sub-section (2), a single application may be made by a landlord in respect of lands held as *utbandi* lands in the same village by one or more raiyats under him and a joint application may be made by two or more raiyats in respect of lands held by them as *utbandi* lands in the same village under the same landlord.

(4) The application may be made to the Collector or to a Subdivisional Officer or to a Revenue Officer appointed by the Local Government under the designation of Settlement Officer or Assistant Settlement Officer for the purpose of making a survey and record-of-rights under Chapter X or to any other officer specially authorised by the Local Government.

of 1923.]

(Section 2.)

- (5) The case may be determined by the officer who receives the application, or the Collector or the Settlement Officer may transfer it for disposal to some other officer competent under sub-section (4) to receive applications
- (6) The officer receiving the application or the officer to whom the case is transferred, as the case may be, shall cause notice to be given in the prescribed manner to the opposite party and shall fix a date for the determination of the case
If the immediate landlord of the raiyat is a temporary tenure-holder or *jaradar* the officer receiving the application shall also give notice to the superior landlord in the lowest degree, who is a proprietor or permanent tenure-holder
- (7) If the application is made in respect of lands in which the raiyat has not acquired occupancy rights, the officer may reject it in respect of such lands, if he is satisfied in view of all the circumstances of the case that it is unreasonable to grant it

Provided that a refusal shall be no bar to proceedings being again taken under this section after five years from the date of refusal if in the opinion of the officer who then receives the application the circumstances have in the meantime changed.

- (8) If the application is not rejected, the officer shall then determine the sum to be paid as a uniform annual money rent, and also in the case of lands in which the raiyat has not acquired occupancy rights, a premium to be paid to the landlord, and he shall order that the raiyat shall, in lieu of paying the rent for the land as *utbandi* land, pay the sum so determined and the premium, if any

Provided that in any case in which an order fixing a uniform annual money rent is passed *ex parte* the opposite party may within one month of the date of such order or, when the notice has not been duly

[Ben. Act X

(Section 2.)

any form of tenancy locally known as *utbandi* land (hereinafter referred to as *utbandi* land), either the landlord or the raiyat may apply to have a uniform annual money rent determined for the land.

(2) The application shall include at the discretion of the applicant either—

(a) all *utbandi* lands held in the same village by the same raiyat under the same landlord in which the raiyat has acquired a right of occupancy whether under the provisions of section 180 or otherwise, or

(b) all the lands held in the same village under the same landlord by the raiyat which the raiyat, or any deceased person whose heir he is, has cultivated as *utbandi* land at any time during the preceding period of six years if he or the said deceased person is the last person to have cultivated the land and has not or had not acquired occupancy rights therein, or

(c) both.

(3) Subject to the provisions of sub-section (2), a single application may be made by a landlord in respect of lands held as *utbandi* lands in the same village by one or more raiyats under him and a joint application may be made by two or more raiyats in respect of lands held by them as *utbandi* lands in the same village under the same landlord.

(4) The application may be made to the Collector or to a Subdivisional Officer or to a Revenue Officer appointed by the Local Government under the designation of Settlement Officer or Assistant Settlement Officer for the purpose of making a survey and record-of-rights under Chapter X or to any other officer specially authorised by the Local Government.

of 1923.]

(Section 2)

(5) The case may be determined by the officer who receives the application, or the Collector or the Settlement Officer may transfer it for disposal to some other officer competent under sub-section (4) to receive applications

(6) The officer receiving the application or the officer to whom the case is transferred, as the case may be shall cause notice to be given in the prescribed manner to the opposite party, and shall fix a date for the determination of the case

If the immediate landlord of the riyat is a temporary tenure-holder or *jaradar* the officer receiving the application shall also give notice to the superior landlord in the lowest degree, who is a proprietor or permanent tenure-holder

(7) If the application is made in respect of lands in which the riyat has not acquired occupancy rights, the officer may reject it in respect of such lands, if he is satisfied in view of all the circumstances of the case that it is unreasonable to grant it

Provided that a refusal shall be no bar to proceedings being again taken under this section after five years from the date of refusal if in the opinion of the officer who then receives the application the circumstances have in the meantime changed.

(8) If the application is not rejected, the officer shall then determine the sum to be paid as a uniform annual money rent, and also in the case of lands in which the riyat has not acquired occupancy rights, a premium to be paid to the landlord, and he shall order that the riyat shall, in lieu of paying the rent for the land as *utbandi* land, pay the sum so determined and the premium, if any

Provided that in any case in which an order fixing a uniform annual money rent is passed *ex parte* the opposite party may within one month of the date of such order

as the case may be not been duly

(Section 2.)

served, within one month of the date of his knowledge of such order apply to the officer by whom the order was passed for an order to set it aside and, if he satisfies the officer that the notice of the application under sub-section (1) was not duly served on him or that he was prevented by any sufficient cause from appearing when the case was determined, the officer shall set aside the order and shall appoint a day for the determination of the case. No order shall be set aside on application made under this proviso unless notice thereof has been served on the respondent thereto.

- (9) In making the determination of the sum to be paid as rent, the officer shall calculate the average of the amount that was actually paid or payable as rent for the land for the previous six years and shall ordinarily declare the same as the sum to be paid as rent:

Provided that the officer may also take into consideration—

- (a) the average money rent payable by occupancy raiyats for land of a similar description and with similar advantages in the vicinity;
- (b) the average rates for lands of a similar description and with similar advantages in the vicinity held as *utbandi* lands;
- (c) the average money rent payable for lands of a similar description and with similar advantages in the vicinity by raiyats who formerly paid their rent for those lands as *utbandi* lands but whose rents have been converted into uniform annual money rents whether under this section or by agreement or otherwise;
- (d) the charges incurred in accordance with custom by the landlord in

of 1923.]

(Section 2)

respect of the mitigation and drainage of the *utbandi* lands and the arrangements made for continuing those charges,

- (e) the rules laid down in this Act for the guidance of the Civil Courts in enhancing or reducing rents on account of the holdings of occupancy raiyats,
- (f) any sum agreed to by the parties to be paid as money rent

Provided that the officer shall in no case determine a rent which is unfair or inequitable

- (10) The premium to be paid to the landlord in the case of lands in which the raiyat has not acquired occupancy rights shall be three times the rent, or, if the application is made under clause (c) of sub-section (2), three times the portion of the rent determined under sub-section (8) on account of such lands
- (11) If the immediate landlord of the raiyat is a temporary tenure-holder or *jaradar* the officer shall apportion the premium payable under sub-section (10) between the said temporary tenure-holder or *jaradar* and his superior landlord of the lowest degree who is a proprietor or permanent tenure-holder in such manner as may appear fair and reasonable to the officer in view of all the circumstances of the case, and any sum so awarded to the said superior landlord shall be recoverable by him from the temporary tenure-holder or *jaradar* or his successor in interest as an arrear of rent but shall not be recoverable by the superior landlord from the raiyat.
- (12) The order shall be in writing, shall state the grounds on which it is made, and shall, in the absence of any special reasons to the contrary recorded in writing, take effect from the beginning of the agricultural year next after the date on which it is made.

[Ben. Act X

(Section 2.)

(13) The officer shall fix the date (not being more than one month from the date of the order) by which the premium shall be paid or he may, on the application of the raiyat, order that the premium shall be paid by instalments not exceeding three in number, that the first instalment shall be paid at the beginning of the agricultural year in which the rent settled under sub-section (8) takes effect and that one of the remaining instalments shall be paid at the beginning of each of the succeeding agricultural years until the premium is paid in full.

(14) The premium or any instalment thereof shall be recoverable as rent and if the premium or any instalment thereof is not paid by the date fixed under sub-section (13) for the payment of such premium or instalment the landlord may make a requisition to the Collector for the recovery of the arrear of the same in the manner set forth in sub-sections (3) and (4) of section 158A, and the provisions of sub-sections (5) to (9) of that section shall apply to the recovery of the said arrear by the Collector as if it were an arrear of rent, recoverable by him under the provisions of that section.

Interest shall not be payable on any instalment in respect of which default has not been made.

The Local Government may make rules prescribing the form of requisition to be made by a landlord under this sub-section and for carrying into effect the purposes of this sub-section.

(15) Any order made under this section shall be subject to appeal in the manner provided in section 109A, unless the application has been made in the course of proceedings under Part II of Chapter X, in which case the provisions of sections 104G and 104H shall apply.

THE BENGAL TENANCY (UTBANDI AMENDMENT) 853
ACT, 1923

of 1923.]

(Section 2.)

(16) An application made under sub-section (1) may be amended if it appears at any time to the officer prior to the issue of the order under sub-section (7) or sub-section (8) or to the appellate or revisional Court that it does not comply with the provisions of sub-section (2) but that it can be brought into conformity with that sub-section. Such amendment may be made either on the initiative of the parties or either of them or of the officer or Court but it shall not be made unless prior notice thereof is given to the parties and, if such amendment is made, it shall be made only on such terms or conditions as to such officer or Court shall appear to be just.

(17) Notwithstanding anything contained elsewhere in this Act or in any other law, no suit shall be brought or application made in any Court in respect of any order passed under this section, save as is provided in this section.

180B Whenever an order under section 180A is passed determining a uniform annual money rent for any lands, such lands shall cease to be held as *utbandi* lands with effect from the date from which the new rent takes effect, and the tenant shall hold them as an occupancy riyat from the date of the order.

Lands in respect of which a uniform annual money rent has been fixed under section 180A to cease to be *utbandi* lands

180C. (1) Where a uniform annual money rent has been fixed under section 180A, the said rent shall not, except on the ground of a landlord's improvement or of a subsequent alteration of the area of the holding, be enhanced for fifteen years; nor shall it be reduced for fifteen years, save on the ground of alteration in the area of the holding, or on the ground specified in clause (a) of sub-section (1) of section 35.

Period for which rent fixed under sec 180A to remain unaltered

(2) The said period of fifteen years shall be counted from the date on which the order takes effect under sub-section (12) of section 180A."

BENGAL ACT No. XI OF 1923.

[THE CALCUTTA MUNICIPAL (No. II) ACT,
1923.]¹

[19th September, 1923.]

An Act to provide for certain matters in connection with the Budget Estimate of the Corporation of Calcutta for the year 1924-25, the fixing of the rates at which the consolidated rate and the taxes for that year shall be levied and imposed and the arrangements to be made in connection with the raising of loans during that year, for the fixing of the percentage of the consolidated rate in respect of the added areas during the four succeeding years, and for the amendment of section 20 of the Calcutta Municipal Act, 1923,² in respect of the qualification of electors.

WHEREAS it is expedient to give to representatives of the Commissioners of the municipalities which are to be included in Calcutta, under the provisions of the Calcutta Municipal Act, 1923,³ an opportunity of taking part in the framing and passing of the Budget Estimate of the Corporation of Calcutta for the year 1924-25, in the fixing of the rates at which the consolidated rate and the taxes for that year shall be levied and imposed and in the arrangements that are to be made for the raising of any loan during that year, and so to provide for the framing and passing of the said Budget Estimate, the fixing of the said rate and the arrangements for the said loans;

Preamble

And whereas it is expedient that the Corporation do fix for the year 1924-25 a favourable percentage in respect of the levy of the consolidated rate on lands and buildings in each of the areas added to Calcutta by the Calcutta Municipal Act, 1923, and that they have power to fix a special percentage in respect of the lands and buildings in any such areas during the four succeeding years;

And whereas it is expedient to amend section 20 of the said Act in respect of the minimum amount to be paid by a person as consolidated rate, tax or rent so as to entitle him to be an elector:

Ben Act III
of 1923

¹ For Statement of Objects and Reasons see Calcutta Municipal Act, 1923, Pt. IV, p. 294. A Bill introduced in the Council on the 16th March 1923 and passed by the Council on the 19th March 1923. Act XII, pp. 61-62, and Vol. VIII, p. 100, 101.
² Act, p. 62.

BENGAL ACT No. XI OF 1923.

[THE CALCUTTA MUNICIPAL (No. II) ACT,
1923.]¹

[19th September, 1923]

An Act to provide for certain matters in connection with the Budget Estimate of the Corporation of Calcutta for the year 1924-25, the fixing of the rates at which the consolidated rate and the taxes for that year shall be levied and imposed and the arrangements to be made in connection with the raising of loans during that year, for the fixing of the percentage of the consolidated rate in respect of the added areas during the four succeeding years, and for the amendment of section 20 of the Calcutta Municipal Act, 1923,² in respect of the qualification of electors

WHEREAS it is expedient to give to representatives of the Commissioners of the municipalities which are to be included in Calcutta, under the provisions of the Calcutta Municipal Act, 1923,³ an opportunity of taking part in the framing and passing of the Budget Estimate of the Corporation of Calcutta for the year 1924-25, in the fixing of the rates at which the consolidated rate and the taxes for that year shall be levied and imposed and in the arrangements that are to be made for the raising of any loan during that year, and so to provide for the framing and passing of the said Budget Estimate, the fixing of the said rate and the arrangements for the said loans;

Preamble

And where it is expedient that the Corporation do fix for the year 1924-25 a favourable percentage in respect of the levy of the consolidated rate on lands and buildings in each of the areas added to Calcutta by the Calcutta Municipal Act, 1923, and that they have power to fix a special percentage in respect of the lands and buildings in any such areas during the four succeeding years;

And where it is expedient to amend section 20 of the said Act in respect of the minimum amount to be paid by a person in consolidated rate, tax or rent so as to entitle him to be an elector:

¹ For Statement of Objects and Reasons see Calcutta Gazette, 1923, Pt. IV, p. 294. ² As amended by the Calcutta Municipal (No. II) Act, 1923, Pt. IV, p. 294, and by the Calcutta Municipal (No. III) Act, 1923, Pt. IV, p. 294. ³ As amended by the Calcutta Municipal (No. II) Act, 1923, Pt. IV, p. 294, and by the Calcutta Municipal (No. III) Act, 1923, Pt. IV, p. 294.

(Sections 1-3.)

It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Calcutta Municipal (No. II) Act, 1923.

(2) It extends to Calcutta as defined in clause (11) of section 3 of the Calcutta Municipal Act, 1923.¹

Ben. Act III
of 1923.

Manner of preparation and passing of Budget Estimate of the Calcutta Corporation for 1924-25, etc.

2. Notwithstanding anything contained in the Calcutta Municipal Act, 1899, or in the Calcutta Municipal Act, 1923,¹ the Budget Estimate of the Corporation of Calcutta for the year 1924-25 for the purposes of the Calcutta Municipal Act, 1923, shall be prepared and passed, and the rates at which the consolidated rate and the taxes for the said year for the said purposes shall be levied and imposed shall be determined and fixed, and the sums of money, if any, that shall be borrowed in the said year for the said purposes shall be determined, in the manner set forth in sections 3 to 5.

Ben. Act III
of 1899.

Preparation of Budget Estimate and reference to General Committee.

3. (1) The Budget Estimate of income and expenditure for the year 1924-25 of the Corporation of Calcutta to be constituted under the Calcutta Municipal Act, 1923,¹ shall be prepared, with reference to the area specified in Schedule I to that Act and for the purposes of that Act, by the Chairman of the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1899, and the said Chairman shall, on or before the tenth day of January, 1924, place the same, together with a statement of proposals as to the taxation which it will, in his opinion, be necessary or expedient to impose under the Calcutta Municipal Act, 1923, in the year 1924-25, before the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1899, at a special meeting convened for the purpose, and the Corporation of Calcutta, as so constituted, shall forthwith refer the said Budget Estimate and proposals for consideration to a Special Committee which shall consist of the following members :—

- (i) the Chairman of the Calcutta Corporation ;
- (ii) nine Commissioners of the Calcutta Corporation to be elected by the Corporation at the said special meeting from among the ward Commissioners ;

of 1923.]

(Section 3.)

- (iii) four Commissioners of the Calcutta Corporation to be elected by the Corporation at the said special meeting from among the appointed Commissioners;
- (iv) four Commissioners of the Cossipore-Chitpur Municipality, to be elected by the Commissioners of that Municipality at a special meeting held before the first day of January, 1924
- (v) three Commissioners of the Miniktala Municipality, to be elected by the Commissioners of that Municipality at a special meeting held before the first day of January, 1924, and
- (vi) two Commissioners of the Garden Reach Municipality, to be elected by the Commissioners of that Municipality at a special meeting held before the first day of January, 1924

Provided that, if the Commissioners of any of the municipalities referred to in clauses (iv), (v) and (vi) fail to elect the full number of members to be elected by them by the first day of January, 1924, the Local Government shall nominate a sufficient number of persons to complete the said number and such persons shall be deemed to be members duly elected by the said Commissioners.

(2) The names of the members of the Special Committee shall be published in the *Calcutta Gazette*

(3) The Chairman of the Calcutta Corporation shall be Chairman of the Special Committee, and the procedure of the Special Committee shall be in accordance with the rules made for the business of Standing Committees of the Corporation of Calcutta

(4) The Special Committee, as so constituted, shall, on or as soon as may be after the tenth day of February, 1924, consider the estimates and proposals submitted by the Chairman of the Corporation and subject to such modifications and additions therein or thereto as they may think fit to make, shall prepare a Budget Estimate of income and expenditure of the Corporation of Calcutta to be constituted under the Calcutta Municipal Act, 1923,¹ for the year 1924-25, and shall propose the levy of the consolidated rate and other taxes for that year at such rates as they may deem necessary.

(Sections 1-3.)

It is hereby enacted as follows :—

Short title and extent.

1. (1) This Act may be called the Calcutta Municipal (No. II) Act, 1923.

(2) It extends to Calcutta as defined in clause (11) of section 3 of the Calcutta Municipal Act, 1923.¹

Ben. Act III
of 1923.

Manner of preparation and passing of Budget Estimate of the Calcutta Corporation for 1924-25, etc.

2. Notwithstanding anything contained in the Calcutta Municipal Act, 1899, or in the Calcutta Municipal Act, 1923,¹ the Budget Estimate of the Corporation of Calcutta for the year 1924-25 for the purposes of the Calcutta Municipal Act, 1923, shall be prepared and passed, and the rates at which the consolidated rate and the taxes for the said year for the said purposes shall be levied and imposed shall be determined and fixed, and the sums of money, if any, that shall be borrowed in the said year for the said purposes shall be determined, in the manner set forth in sections 3 to 5.

Ben. Act III
of 1899.

Preparation of Budget Estimate and reference to General Committee.

3. (1) The Budget Estimate of income and expenditure for the year 1924-25 of the Corporation of Calcutta to be constituted under the Calcutta Municipal Act, 1923,¹ shall be prepared, with reference to the area specified in Schedule I to that Act and for the purposes of that Act, by the Chairman of the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1899, and the said Chairman shall, on or before the tenth day of January, 1924, place the same, together with a statement of proposals as to the taxation which it will, in his opinion, be necessary or expedient to impose under the Calcutta Municipal Act, 1923, in the year 1924-25, before the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1899, at a special meeting convened for the purpose, and the Corporation of Calcutta, as so constituted, shall forthwith refer the said Budget Estimate and proposals for consideration to a Special Committee which shall consist of the following members :—

- (i) the Chairman of the Calcutta Corporation ;
- (ii) nine Commissioners of the Calcutta Corporation to be elected by the Corporation at the said special meeting from among the ward Commissioners ;

OF 1923.]

(Section 3.)

- (iii) four Commissioners of the Calcutta Corporation to be elected by the Corporation at the said special meeting from among the appointed Commissioners,
- (iv) four Commissioners of the Cossipore-Chitpuri Municipality, to be elected by the Commissioners of that Municipality at a special meeting held before the first day of January, 1924,
- (v) three Commissioners of the Maniktala Municipality, to be elected by the Commissioners of that Municipality at a special meeting held before the first day of January, 1924, and
- (vi) two Commissioners of the Garden Reach Municipality, to be elected by the Commissioners of that Municipality at a special meeting held before the first day of January, 1924.

Provided that, if the Commissioners of any of the municipalities referred to in clauses (iv), (v) and (vi) fail to elect the full number of members to be elected by them by the first day of January, 1924, the Local Government shall nominate a sufficient number of persons to complete the said number and such persons shall be deemed to be members duly elected by the said Commissioners.

(2) The names of the members of the Special Committee shall be published in the *Calcutta Gazette*.

(3) The Chairman of the Calcutta Corporation shall be Chairman of the Special Committee, and the procedure of the Special Committee shall be in accordance with the rules made for the business of Standing Committees of the Corporation of Calcutta.

(4) The Special Committee, as so constituted, shall, on or as soon as may be after the tenth day of February, 1924, consider the estimates and proposals submitted by the Chairman of the Corporation and subject to such modifications and additions therein or thereto as they may think fit to make, shall prepare a Budget Estimate of income and expenditure of the Corporation of Calcutta to be constituted under the Calcutta Municipal Act, 1923,¹ for the year 1924-25, and shall propose the levy of the consolidated rate and other taxes for that year at such rates as they may deem necessary.

(Section 4.)

Passing of Budget Estimate, etc

4. (1) The Budget Estimate, as finally framed by the said Special Committee, together with a statement of proposals as to the taxation which it will, in the opinion of the Special Committee, be necessary or expedient to impose under this Act in the year 1924-25. shall be placed before the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1899, on or before the seventh day of March, 1924, and the said Corporation shall consider, on behalf of the Corporation of Calcutta to be constituted under the Calcutta Municipal Act, 1923,¹ the said proposals of the Special Committee, and in so doing shall apply thereto the provisions of the Calcutta Municipal Act, 1923, so far as in their opinion these can be suitably applied, and shall, on or before the twenty-second day of March, 1924, pass the same Budget Estimate, subject to such further modifications or additions as to them shall appear to be expedient, and shall fix, with reference to the Budget Estimate as so passed, the rates at which the consolidated rate and the taxes mentioned in the Calcutta Municipal Act, 1923, shall be levied and imposed for the year commencing on the first day of April, 1924, and the sums of money (if any) which shall be borrowed during the said year for the purposes of the Calcutta Municipal Act, 1923 :

Ben. Act III
of 1899.

Ben. Act III
of 1923.

Provided that, notwithstanding anything contained in the Calcutta Municipal Act, 1923, the total amount by way of—

- (i) the rate on holdings,
- (ii) the lighting rate (if any),
- (iii) the water rate (if any), and
- (iv) the latrine fees (if any),

assessed and leviable under the Bengal Municipal Act, 1884,² for the year ending the 31st March, 1924, in respect of any holding in any of the areas added to Calcutta by the Calcutta Municipal Act, 1923, shall be deemed to be the consolidated rate leviable under the provisions of the Calcutta Municipal Act, 1923, in respect of lands and buildings included in such holding for the year 1924-25 for all the purposes of that Act :

Ben. Act III
of 1884.

Provided also that if any new building, as defined in the Calcutta Municipal Act, 1923, is erected during

¹ *Ante*, p. 425.

² Bengal Code, Vol. II.

of 1923.]

(Section 5)

the year 1921-25 on any premises in any of the said areas, the Executive Officer may cause such building to be valued, and the consolidated rate on the premises shall be levied at the rate fixed for that year for the purpose of the levy of the consolidated rate on lands and buildings in Calcutta generally. The valuation so made shall remain in force until the next general re-valuation of the ward under the provisions of the Calcutta Municipal Act, 1923¹

Ben Act III
of 1923

(2) For the purposes of this section, notwithstanding anything contained in the Calcutta Municipal Act, 1893, the Corporation of Calcutta shall be deemed to include the additional members referred to in clauses (iv), (v) and (vi) of sub-section (1) of section 3.

Ben Act III
of 1923

(3) If the Special Committee fail to submit to the Corporation of Calcutta by the seventh day of March, 1924, the Budget Estimate and proposals referred to in sub-section (1) of section 3, the Budget Estimate and proposals of the Chairman referred to in sub-section (1) of that section shall be deemed to be the Budget Estimate and proposals of the Special Committee finally framed and duly made in accordance with this Act and the Corporation shall consider them accordingly. If the Corporation of Calcutta fail to consider and to pass by the twenty-second day of March, 1924, the Budget Estimate of the Special Committee, the Budget Estimate and proposals of the Special Committee shall be deemed to be the Budget Estimate and proposals of the Corporation of Calcutta duly made and passed under the provisions of this Act.

5. The Budget Estimate of the Corporation of Calcutta for the year 1921-25, as so passed, and the rates at which the consolidated rate and taxes shall be levied and imposed, as so determined and fixed, and the decision of the Corporation in respect of any loan or loans to be raised, shall, notwithstanding anything contained in the Calcutta Municipal Act, 1923,¹ have for all the purposes of that Act full force and effect in Calcutta as defined in clause (11) of section 3 of that Act during the year 1921-25 and—

Validity of
Budget Estimate
for 1921-25, etc

(i) the said Budget Estimate shall be deemed to be the Budget Estimate duly passed,

[Bengal Act XI

(Sections 6-7.)

(ii) the consolidated rate and taxes levied and imposed at the rates so determined and fixed shall be deemed to be the consolidated rate and taxes duly levied and imposed, and

(iii) the loans, if any, incurred in accordance with the said decision shall be deemed to be loans duly incurred,

by the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1923,¹ unless and until such Budget Estimate, consolidated rate and taxes and decision in regard to loans are added to, modified or varied by that Corporation and in accordance with the provisions of that Act.

Ben. Act III of 1923.

Power to Chairman to inspect and take extracts from documents, etc.

6. The Chairman of the Corporation of Calcutta as constituted under the Calcutta Municipal Act, 1899,² and any officer of the said Corporation specially empowered by him in this behalf shall from the commencement of this Act and notwithstanding anything contained in the Bengal Municipal Act, 1884,³ have power to inspect and take extracts from the assessment books and other records of the Maniktala, Cossipore-Chitpur, Garden Reach and Tollygunge Municipalities for all or any of the purposes of this Act and of the Calcutta Municipal Act, 1923,¹ and the Commissioners of the said municipalities shall render to the said Chairman and to any such officer all assistance that he may require for the said purposes.

Ben. Act III of 1899.

Ben. Act III of 1884.

Power to Corporation to fix lower percentage rate for the consolidated rate in respect of lands and buildings in added areas during the years 1925-26 to 1928-29.

7. Notwithstanding anything contained in the Calcutta Municipal Act, 1923,¹ the Corporation, in fixing the rate at which the consolidated rate for any of the years 1925-26, 1926-27, 1927-28 or 1928-29 on lands and buildings in Calcutta generally shall be levied and imposed, may fix, in respect of the lands and buildings in any of the several areas referred to in sub-clauses (i) to (v) of clause (1) of section 3 of that Act, a rate at a lower percentage on the annual valuation than the percentage which is fixed for that year generally in respect of lands and buildings in Calcutta.

¹ *Ante*, p. 425.² Bengal Code, Vol. III.³ Bengal Code, Vol. II.

of 1923.]

(Section 8)

8. In section 20 of the Calcutta Municipal Act, 1923,—

Amendment of
Section 20 of the
Calcutta Municipal
Act 1923

(a) in sub-clause (a)—

(i) after the word "being", in the three places where it occurs, the words "or having been" shall be inserted,

(ii) the first proviso shall be omitted,

(iii) for the second proviso the following shall be substituted, namely —

"Provided that such payment has been made during and in respect of the year (or any portion of the year) last preceding the year in which the election is held"

(b) for sub-clause (b) the following shall be substituted, namely —

"(b) being or having been the occupier of any premises valued for assessment purposes under this Act or, in the case of the first general election held under this Act, under the Calcutta Municipal Act, 1899, or of a portion of any such premises has, at any time during the year last preceding the year in which the election is held, paid rent for such occupancy for at least six months during the said year at a rate not less than twenty-five rupees per mensem, and has on application to the Executive Officer had his name entered in a Register to be maintained for the purpose

Provided that the application to the Executive Officer shall be made not later than the 30th September immediately preceding the election or such other date as the Executive Officer may notify in this behalf; or."

(c) for sub-clause (c) the following shall be substituted, namely —

"(c) being or having been, for not less than six consecutive months during the year last preceding the year in which the election is held, the owner of a hut in a *bushee*

[Ben. Act XI of 1923.]

(Section 9.)

valued for assessment purposes under Chapter X, or, in the case of the first general election held under this Act, under the corresponding Chapter of the Calcutta Municipal Act, 1899,¹ and on account of which a sum of not less than twelve rupees has been paid during the said year in respect of the consolidated rate, has on application to the Executive Officer had his name entered in a Register to be maintained for the purpose :

Ben. Act III
of 1899.

Provided that the application to the Executive Officer shall be made not later than the 30th September immediately preceding the election or such other date as the Executive Officer may notify in this behalf."

Power to re-
move difficulties.

9. If any difficulty arises in assessing and levying a consolidated rate for the year 1924-25 in respect of any of the lands, or of the lands and buildings, in the areas added to Calcutta by the Calcutta Municipal Act, 1923,² the Local Government, on the recommendation of the Corporation, may make such order as to them shall appear to be necessary in order to enable the Corporation to assess and levy a consolidated rate for that year in respect of such land or such land and building.

Ben. Act III
of 1923.

Any such order may modify the provisions of this Act and of the Calcutta Municipal Act, 1923, so far as to the Local Government shall appear to be necessary for carrying the order into effect.

¹ Bengal Code, Vol. III.

² *Ante*, p. 425.

(Section 3.)

- (f) one European or Anglo-Indian Commissioner of the Corporation of Calcutta to be nominated by the Corporation: and
- (g) the following persons, of either sex, being members of the Church of England, namely:—
 - (i) one person to be nominated by the Governor General of India;
 - (ii) two persons to be nominated by the Governor of Fort William in Bengal;
 - (iii) one person to be nominated by the vestry of St. Paul's Cathedral, Calcutta;
 - (iv) two persons to be nominated by the vestry of St. John's Church, Calcutta; and
 - (v) one person to be nominated by the vestry of St. Stephen's Church, Kidderpore.

(2) The Governors may at a meeting co-opt with themselves such persons, of either sex, not exceeding three in number, as they may consider necessary. Such persons shall be deemed to be Governors for the purposes of this Act.

(3) If any of the bodies referred to in clauses (d), (e) and (f) and sub-clauses (iii) to (v) of clause (g) of subsection (1) does not by such date as may be prescribed by the Local Government nominate the Governors mentioned therein, the Local Government shall nominate qualified persons to be such Governors, who shall be deemed to be Governors duly nominated by such bodies.

(4) The names of the nominated and co-opted Governors shall be published in the *Calcutta Gazette*.

3. The Governors shall be a body corporate by the name of the "Governors of St. Thomas' School" having perpetual succession and a common seal and in that name shall sue and be sued, and shall have power to acquire and hold property, to enter into contracts and to do all acts consistent with this Act, which may in their opinion be necessary for, or conducive to, the carrying out of the purposes of the school.

of 1923.]

(Sections 1-7)

4. The nominated and co-opted Governors shall, save as is herein otherwise provided, hold office for a period of three years from the date of the publication of their names in the *Calcutta Gazette*. Period of office of the Governors

Provided that the said period of three years shall be held to include any period which may elapse between the expiration of the said three years and the date of the publication of names of new Governors in the *Calcutta Gazette*

Provided also that the nominated and co-opted Governors shall be eligible for re-appointment

5. (1) The quorum necessary for the transaction of business at meetings of the Governors shall be five. Quorum

(2) No act of the Governors shall be invalid, merely by reason of any defect or invalidity in the appointment of any nominated or co-opted Governor or by reason of the number of Governors being less than that prescribed by section 2

6. If a nominated or co-opted Governor—

(a) dies, or

(b) is absent from the meetings of the Governors for more than six consecutive months, or

(c) desires to be discharged, or

(d) refuses to act or becomes incapable of acting,

the authority which nominated or co-opted him may in cases (b) to (d) declare his post to be vacant and may in cases (a) to (d) nominate or co-opt, as the case may be, a new Governor to fill such vacancy for the unexpired remainder of the term for which such Governor would otherwise have continued in office.

Lower
appoint
to new
Governors

MANAGEMENT AND PROPERTY OF ST. THOMAS' SCHOOL.

7. From the date when this section comes into operation— Change in the name of the school and vacation of office by existing Governors

(i) the Calcutta Free School shall be known as St. Thomas' School, and

(ii) the term of office of all persons then acting as Governors of the school shall cease and the St. Thomas' School Society shall cease to have any connection with the management of the school.

(Sections 8-10.)

Property
vest in
Governors.

to
the

8. (1) All property, movable or immovable, which at the date when this section comes into operation appertains to the Calcutta Free School or is held by or on behalf of the persons then acting as Governors of the school or by the St. Thomas' School Society for the purposes of the school (including the premises specified in the First Schedule) shall, together with any property movable or immovable which may thereafter be given, bequeathed, transferred or acquired for the purposes mentioned in section 11, vest as and from such date in the Governors of St. Thomas' School as constituted by section 3 for the purposes of the school:

Provided that the Governors shall apply any funds which up to that date have been held in trust for specific purposes in connection with the school including the funds set forth in the Second Schedule, and any funds which may thereafter be so held, to the purposes for which they are held in trust.

(2) All liabilities which at the said date have been incurred by the persons then or theretofore acting as Governors or by the St. Thomas' School Society for the purposes of the school shall be deemed to be, and are hereby declared thereafter to be, liabilities of the Governors of St. Thomas' School as constituted by section 3.

Powers
Governors
to remove
from school
site and present
dispose
of that site.

9. The Governors are hereby authorised to carry out the removal of the school from the site in Free School Street, where it is in part located, to such other site or sites as the Governors may, with the sanction of the Local Government, determine and the Governors are hereby empowered in that behalf to sell, lease, mortgage, or otherwise dispose of the present premises in Free School Street and the site thereof and to acquire by purchase or otherwise a suitable site or sites and to erect buildings for the purposes of the school as the Governors may, with the sanction of the Local Government, determine.

Power to Govern-
ors to delegate
their powers and
to appoint
teachers and
officers.

10. The Governors shall have power from time to time—

(a) to delegate, subject to such conditions as they think fit, any of their powers to sub-committees consisting of such Governors as they shall think fit;

of 1923.]

(Sections 11-13.)

- (b) to appoint a Secretary and to fix his remuneration, if any, and
- (c) to appoint such persons as they shall think fit to employ for the purposes of the school (including school-teachers, boarding-masters, matrons, sergeants, clerks, officers and servants) and to fix their remuneration.

11. The purposes of St. Thomas' School are hereby declared to be as follows and, save as is otherwise herein provided, all property vested in the Governors by or under this Act shall be deemed to be held in trust for the said purposes and not otherwise :—

Purposes of
St. Thomas'
School

- (1) the maintenance of an efficient school, and
- (2) the provision of a sound education, with religious instruction in accordance with the principles of the Church of England, for the children of Europeans and Anglo-Indians :

Provided that in the interpretation of the terms "European" and "Anglo-Indian" the Governors shall have due regard to any definition of those terms which may be included in the Code of Regulations for European Schools.

12. The Governors shall not be precluded by any provision in this Act from conforming to any regulations which the Local Government may impose as the conditions of a grant of money to the school.

Act not to
preclude Govern-
ors from con-
forming to regula-
tions of Local
Government

MAKING OVER OF LAND FOR THE COMPOUND OF
ST. THOMAS' CHURCH.

13. (1) The Governors are further authorised in such manner as they deem fit to make over to, and to vest in, the Lord Bishop of Calcutta and the Archdeacon of Calcutta conjointly such land (the property of the Governors), adjacent to St. Thomas' Church and not exceeding, when taken together with the land consecrated with the St. Thomas' Church building, two bighas in all, as they may deem to be necessary for the convenient user of that Church for the purposes of the Church of England.

Compounded of
St. Thomas'
Church

(2) The boundaries of such land shall be delineated on the ground and approved by the Local Government before action is taken by the Governors under sub-section (1).

(Sections 14, 15.)

PROVIDENT FUND.

Power to Govern-
ors to establish
a provident fund
or funds.

14. The Governors may, with the approval of the Local Government, establish a provident fund or provident funds for the benefit of their teachers, other officers or servants (appointed in accordance with the provisions of this Act) and may compel all or any of such teachers, officers and servants to contribute to, and may make supplementary contributions to, such provident fund or funds and make payments thereout in accordance with the rules of such fund or funds.

RULES.

Power to Govern-
ors to make
rules.

15. The Governor's may from time to time make rules for any of the following purposes, namely:—

- (a) for their own guidance and for the conduct of their business;
- (b) to determine the persons by whom orders for payment of money, contracts, transfers and other documents may be signed on behalf of the Governors;
- (c) for the management and control of the school in all its departments, including any hostel that may be established in connection with the school;
- (d) regulating the proceedings of sub-committees;
- (e) prescribing the rates and the conditions under which contributions may be paid by the Governors and their officers, teachers and servants to the provident fund or funds which may be established under section 14, and determining the conditions of payments from such fund or funds.

(*The First and Second Schedules.*)

THE FIRST SCHEDULE.

(*See section 8.*)

(1) With the exception of the St. Thomas' Church building and the land consecrated therewith, measuring one hundred and eighteen feet by fifty-nine feet,

of 1923.

The First and Second Schedules—concluded.

the site with buildings thereon known as the Calcutta Free School, situated at 58 Free School Street, 28, Marquis Street, and 6, Marquis Lane, Calcutta, measuring about thirty-one bighas, and bounded as follows:—

“On the north by pucca houses, a small Church known as St Joseph’s (Madras) Chapel and Market Street, on the south by a house and Marquis Street, on the east by a house and Collin Street (formerly called Collinga Bazar Street); and on the west by Free School Street”

(2) The leasehold of the land and buildings, known as Kidderpore House, situated on 1, Diamond Harbour Road, in Kidderpore in the district of the 21-Parganas, containing an area of twenty-one decimal nought four acres or thereabouts, and bounded as follows:—

“On the north by St. Stephen’s Church compound and Government land of the Cattle Market, on the north-east corner by the Orphanage Road; on the east by the premises of the Zoological Gardens and the Meteorological Observatory compound, on the south by the land of the lines of the Governor’s Body Guard; and on the west by the compound of St. Stephen’s Parsonage and Diamond Harbour Road.”

THE SECOND SCHEDULE

(See section 5.)

LIST OF FUNDS

1. Provident Fund.
2. Retiring Allowance Fund.
3. Apprentice Fund.
4. Thompson “Rex Ludorum” Fund.
5. Samuel Benjamin Taylor Fund.

(Sections 14, 15.)

PROVIDENT FUND.

Power to Govern-
ors to establish
a provident fund
or funds.

14. The Governors may, with the approval of Local Government, establish a provident fund or funds for the benefit of their teachers, officers or servants (appointed in accordance with the provisions of this Act) and may compel all or any of such teachers, officers and servants to contribute to the fund and may make supplementary contribution to the fund or funds and make payments out of the fund or funds in accordance with the rules of such fund.

RULES.

Power to Govern-
ors to make
rules.

15. The Governors may from time to time make rules for any of the following purposes:

- (a) for their own guidance and of their business;
- (b) to determine the persons by whom payment of money, contribution or other documents may be made to the Governors;
- (c) for the management and control of the school in all its departments that may be established in the school;
- (d) regulating the provisions of the fund;
- (e) prescribing the rules which shall govern the contribution of the Governors and servants to the fund and the payment out of the fund.

(T)

BENGAL ACT No. XIII OF 1923.
[THE CALCUTTA SUPPRESSION OF
IMMORAL TRAFFIC ACT, 1923.]¹

[19th September, 1923.]

An Act for the suppression of Immoral Traffic in the town and suburbs of Calcutta and in the Port of Calcutta.

WHEREAS it is expedient to make better provision for the suppression of brothels, of the traffic in women and girls and for other purposes of a like nature in the town and suburbs of Calcutta and in the Port of Calcutta;

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act.

It is hereby enacted as follows —

1. (1) This Act may be called the Calcutta Suppression of Immoral Traffic Act, 1923

Short title,
commencement,
and extent

(2) It shall come into force on such date² as the Local Government may, by notification in the *Calcutta Gazette*, direct

(3) It extends to Calcutta as defined in section 2.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "brothel" means any house, room or place which the occupier or person in charge thereof habitually allows to be used by any other person for the purposes of prostitution;

(2) "Calcutta" means the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866,³ the suburbs of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866,³ and the Port of Calcutta as defined by notification under section 5 of the Indian Ports Act, 1908⁴;

¹For Statement of Objects and Reasons see *Calcutta Gazette* 1923, Pt. IV, p. 214, and for Proceedings in Council see the Bengal Legislative Council Proceedings, 1923, Vol. XI, No. 111 and 294, and Vol. XII, pp. 116-120, and Vol. XIII, pp. 236-291, and p. 429-434.

²The 1st December, 1923 see Notification No. 3143 Pt. II, dated the 26th November, 1923, *Calcutta Gazette*, 1923, Pt. I, p. 183.

³Bengal Code, Vol. II.

⁴General Acts, Vol. VI.

5 & 6 Geo. 5,
c. 61, 6 & 7
Geo. 5, c. 37,
9 & 10 Geo. 5,
c. 101

Beng. Act IV
of 1866,
Beng. Act II
of 1866

XV of 1908.

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¹For Statement of Objects and Reasons see *Calcutta Gazette* 1923, Pt. IV, p. 100. See also the Local Legislature Council 127-334, and Vol. XII, p. 11-12, and

²See Vol. XII Pt. II, 24 of the 26th November, 1923, *Calcutta Gazette*, 1923, Pt. I, p. 1732.

³Magical Code, Vol. II.

⁴General Acts, Vol. VI.

5 & 6 Geo 5,
c 61, 6 & 7
Geo 5, c 37,
9 & 10 Geo 5,
c 101

Ben Act IV
of 1866

Ben Act 11
of 1866

XV of 1908

(Section 3.)

- (3) "Commissioner of Police" means the Commissioner of Police for the town and suburbs of Calcutta ;
- (4) the words "public place" and "street" have the meanings assigned to them by section 3 of the Calcutta Police Act, 1866¹ ;
- (5) "prescribed" means prescribed by rules made under section 13.

Ben.
IV of 18

Power to order
discontinuance of
house, etc., as
brothel, etc.

3. (1) When the Commissioner of Police receives information that any house, room or place—

- (a) is being used as a brothel or disorderly house, or for the purpose of carrying on the business of a common prostitute, in the vicinity of any educational institution or of any boarding house, hostel or mess used or occupied by students, or of any place of public worship or recreation, or
- (b) is used as, or for the purpose, aforesaid to the annoyance of respectable inhabitants of the vicinity; or
- (c) is used as, or for the purpose, aforesaid on any main thoroughfare which has been notified in this behalf by the Local Government on the recommendation of the Corporation of Calcutta, or
- (d) is used as a common place of assignation,

he may cause a notice to be served on the owner, lessor, manager, lessee, tenant or occupier of the house, room or place or all of them, to appear before him, either in person or by agent, on a date to be fixed in such notice, and to show cause why, on the grounds to be stated in the notice, an order should not be made for the discontinuance of such use of such house, room or place.

(2) If, on the date fixed, or on any subsequent date to which the hearing may be adjourned, the Commissioner of Police is satisfied, after making such inquiry as he deems fit, that the house, room or place is used as described in clause (a), (b), (c) or (d) of sub-section (1), as the case may be, he may direct, by order

of 1923.]

(Section 3 ,

in writing on such owner, lessor, manager, lessee, tenant or occupier, that the use as so described of the house, room or place be discontinued from a date not less than fifteen days from the date of the said order and be not thereafter resumed.

(3) No house, room or place, concerning which an order has been made under sub-section (2), shall again be used, or be allowed to be used, in any manner described in clause (a), (b), (c) or (d) of sub-section (1), as the case may be, and the Commissioner of Police, if he is satisfied, with or without further inquiry, that such house, room or place is again used in such manner, may, by order in writing on the owner, lessor, manager, lessee, tenant or occupier of such house, room or place, direct that the use as so described of such house, room or place be discontinued within a period of seven days and be not thereafter resumed.

(4) For the purposes of this section the decision of the Commissioner of Police that a house, room or place is used in any manner, or for any purpose, described in clause (a), (b), (c) or (d) of sub-section (1) shall be final, and the legality or propriety thereof shall not be questioned in any trial or judicial proceeding in any Court.

(5) Whoever, after an order has been made by the Commissioner of Police under sub-section (2) or sub-section (3) in respect of any house, room or place, uses, or allows to be used, such house, room or place in a manner which contravenes such order after the period stated therein, shall be punished with fine which may extend to fifty rupees for every day after the expiration of the said period during which the breach continues, and shall, on a second conviction for the same offence, be punished with imprisonment for a term which may extend to six months in addition to, or in lieu of, any fine imposed.

(6) For the purpose of an inquiry under this section the Commissioner of Police may depute a Deputy Commissioner of Police to make a local investigation, and may take into consideration his report thereon.

(7) The Commissioner of Police shall maintain a register in which shall be entered a description of all houses, rooms and places in respect of which an order

(Section 4.)

has been made under this section. Such register shall be open to inspection by the public on payment of the prescribed fee.

(8) Notwithstanding anything contained in any other law for the time being in force, the owner or lessor of any house, room or place, in respect of which an order has been made on the lessee, tenant or occupier thereof directing the discontinuance of the use thereof as a brothel or disorderly house or for the purpose of carrying on the business of a common prostitute, or as a common place of assignation, shall be entitled forthwith to determine such lease, tenancy or occupation.

Removal and
disposal of minor
girls found in
brothels, etc.

4. (1) The Commissioner of Police, or a Deputy Commissioner of Police, or a police-officer not below the rank of Inspector, specially authorised in writing in this behalf by the Commissioner or a Deputy Commissioner of Police, shall have power to enter into any brothel or disorderly house or house of assignation, in which he has knowledge or suspicion, or has reason to believe from a report made to him that a girl, apparently under the age of sixteen years, is living or is carrying on, or is being made to carry on, the business of a prostitute, and shall be entitled to remove such girl forthwith from such brothel, disorderly house or house of assignation.

(2) A girl who has been so removed shall be brought before a Juvenile Court constituted under section 37 of the Bengal Children Act, 1922¹, and the Court shall cause an inquiry to be made in the manner provided in sub-section (3) of section 27 of that Act and, if satisfied that the girl is under sixteen years of age and that she should be dealt with as hereinafter provided, may make an order that such girl be placed in suitable custody in the prescribed manner until she attains the age of eighteen years or for any shorter period.

Ben. A
of 1922.

(3) For the determination whether a girl produced before a Court under the provisions of this section is under sixteen years of age, the provisions of section 38 of the Bengal Children Act, 1922,¹ shall apply.

of 1923.]

(Sections 5-8)

5. When a girl has been removed from a brothel or disorderly house, or house of assignation under the provisions of sub-section (1) of section 1, the Commissioner or Deputy Commissioner of Police or other police-officer carrying out the removal shall, until such girl can be brought before the Court, and until the Court makes an order under sub-section (2) of section 1 or otherwise disposes of the case, cause her to be detained in such place (other than a police-station or jail) as may be prescribed in this behalf by the Local Government

Intermedia
custody of
removal of
brothels, etc.

6. (1) Any male person who knowingly lives, wholly or in part, on the earnings of prostitution shall be punished with imprisonment which may extend to three years, or with whipping, or with both of these punishments and shall also be liable to a fine which may extend to one thousand rupees

Punishment
living on
earnings
prostitution

(2) Where a male person is proved—

- (i) to be living with, or to be habitually in the company of, a prostitute, or
- (ii) to have exercised control, direction or influence over the movements of a prostitute,

in such a manner as to show that he is aiding, abetting or compelling her prostitution with any other person or generally, it shall be presumed, until the contrary is proved, that he is knowingly living on the earnings of prostitution

7. Any person who induces a woman or girl to go from any place with intent that she may, for the purposes of prostitution, become the inmate of, or frequent, a brothel, shall be punished with imprisonment which may extend to three years, or (if a male) with whipping or (if a male) with both of these punishments, and shall also be liable to fine which may extend to one thousand rupees.

Procurement

8. Any person who brings or attempts to bring, or causes to be brought, into Calcutta any woman or girl with a view to her carrying on, or being brought up to carry on, the business of a prostitute, shall be punished with imprisonment which may extend to

Punishment
bringing or
attempting to
bring or girl for
prostitution

[Ben. Act XIII of 1923.]

(Sections 9-13.)

three years, or (if a male) with whipping, or (if a male) with both of these punishments and shall also be liable to fine which may extend to one thousand rupees.

Detention as
prostitute or in
brothels, etc

9. Any person who detains any woman or girl against her will—

- (a) in any house, room or place in which the business of a prostitute is carried on, or
- (b) in or upon any premises with intent that she may have sexual intercourse with any man other than her lawful husband,

shall be punished with imprisonment which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

Offences triable
by Presidency
Magistrates or
First Class Magis-
trates.

10. No Magistrate other than a Presidency Magistrate or a Magistrate of the first class shall try offences punishable under sections 6, 7, 8 and 9.

Repeals.

11. Sections 43, 43A and 43B of the Calcutta Police Act, 1866,¹ and sections 17, 17A and 17B of the Calcutta Suburban Police Act, 1866,¹ are hereby repealed.

Ben. Act IV
of 1866.
Ben. Act II
of 1866.

Subsequent
treatment of girl
committed to
suitable custody
under sub-sec-
tion (2) of sec-
tion 4.

12. When an order that a girl be placed in suitable custody has been passed under sub-section (2) of section 4, the provisions of the Bengal Children Act, 1922,² shall, subject to such modifications as the Local Government may prescribe by rules made under section 13 and notwithstanding her age, thereafter apply to the case of such girl during the period of the said order, as if she had been a child or young person dealt with under section 28 of that Act.

Ben. Act I
of 1922.

Rules.

13. The Local Government may make rules—

- (a) prescribing the fee to be paid for inspection of the register maintained under sub-section (7) of section 3;
- (b) for the care, treatment, instruction and maintenance of girls placed in suitable custody under sub-section (2) of section 4; and
- (c) prescribing the places in which girls may be detained under the provisions of section 5.

¹ Bengal Code, Vol. II.

² *Ante*, p. 277.

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